Court, U.S.
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(1)

No.

In the
Supreme Court of the United States
October Term, 2000

Lynn D. Johnston, Petitioner

v.

[Removal Action] Criminal Case No. 53 C 05 9711 IF 07936, Monroe County Court *[embracing State Court §1983, Etc. Complaint Against Conspiracy Violating Civil Rights Under Color Of Law]* Frank O'Bannon (associated with Indiana Gen. Assembly & Office of Govnr.); Dgls. R. Bridges, Kenneth G. Todd, David L. Welch, Elzbth. Mann, E. Michael Hoff, Marc R. Kellams, & Melissa B. Starry (assoc. w. Off. of Cir. Ct. Judge); Carl Salzmann, Jim Trulock, & Jeff Kehr (assoc. w. Cnty. Prosc. Off.); Pat Haley (assoc. w. Cnty. Clerk Off.); James Sinn, John Daugherty, Kira Moore, Stella Bruce, Donald Fowler, & Alicia Chesterfield (assoc. w. Off. of Monroe Cnty. Jury); Randy Williamson (assoc. w. Off. of Mnr. Cnty. Sheriff); Jeffrey Modisett (assoc. w. Off. of Ind. Att. Gen.); Andy Stephenson, Paul Norris, Jr., Ind. U. Trustees, Mike Patton & Others unknown by name (assoc. w. Ind. Univ. Police Dept.); Gary Gibson (assoc. w. Indpls. Motor Veh. Com.) & Jeff Byrd (assoc. w. Indpls. Bu. of Mtr. Veh. Titles); Dave Martin & Others unknown by name (assoc. w. Blgtn. BMV Br.); Nancy Carlstedt (assoc. w. Blgtn. Hosp.); & Bonding Agents & Insurers, & others, unknown by name. Respondents

PETITION for WRIT of CERTIORARI

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247 pp

QUESTIONS PRESENTED FOR REVIEW

(Preface) (A) The litigation flows from obstruction of defensive vindication petitions against Indiana's "civil infraction" law arising upon prejudicial refusal of equal BMV services leading to a "bad stop" "civil infraction" arrest, entry of a fraudulent judgment with extortionate money demand, followed by removal, remand and notice of state court appeal resulting in retaliations including disappearance and alteration of court records, non-warranted electronic bugging, entry of a guilty verdict by a non-sworn-in jury at a trial in absentia (to which Petitioner was not summoned) with judgment entry again (for more money), drivers license suspension, 40 days non-bailable, non-habeas imprisonment, threats of assault and harm, oppressions and trespasses, some of an ongoing nature and consequence. (B) Indiana's "civil infraction" law allows enterprising prosecutors to divert and block summoned citizens' access to judges by interposition of money solicitations or agreements for paid participation in "deferral programs" in exchange for case terminations. (C) The Monroe County Prosecutor's "Infraction Deferral Programs" enlarged his own office budget by roughly a quarter million dollars last year. Similar "victimless crime" revenue schemes exist in numerous states; but Indiana's Constitution requires both criminal "penal fines" and civil "forfeiture penalties," etc. to remain as the principal in the Common School Fund, a perpetual public trust fund whose income is inviolably appropriated for support of common schools in discharge of state educational duty.

(ONE) Upon what authority or interest does the Judicial Branch sanction obstruction of adjudicatory process ?

&

(TWO) In light of the Separation of Powers Articles, state and federal provisions establishing organic fundamental rights, and National Security Act related prohibitions against direct, indirect, and covert violations of citizens' rights by Executive Branch personnel and contractors, **upon what authority or interest does the Executive Branch undertake informal or covert Judicial Branch intervention, or placement of interlopers ?**

LIST OF PARTIES

The parties are listed in the caption to the extent identified by Petitioner. At the trial court level, one of the lawyers with a military "Judge Advocate General's Corps" background (JAG hereinafter) (Michael L. Carmin) filed 2 Appearances. He represents "unknown" defendants, as well as identified defendants. Petitioner's discovery has been blocked. While noting that their predecessors and successors in covert Judicial Branch interventions in Petitioner litigation have not yet been confidently identified, Admiral William J. Perry, ret., and former Naval Intelligence Director, etc. Bobby Ray Inman, ret., have been personally involved in prior covert military action against Petitioner; further Petitioner's micro-technology implants originated from DARPA (Defense Advanced Research Projects Agency) or similar related bio-technology enterprises with which they are associated. Additionally, relative to south Texas environs, evidence provided by Judicial Branch personnel shows naval career JAG attorney Leonard L. Bergersen, ret., using a mailing address of Chase Naval Air Station, Beeville Texas (with a permanent residential address in Peace Dale, RI), covertly intervening in Petitioner's prior Judicial Branch affairs from Texas. Each of these individuals have been served, and are subject to development as hostile witnesses, at minimum.

RULE 29.6 CORPORATE DISCLOSURE

Petitioner is a private citizen and thus there is no parent company nor non-wholly owned subsidiary company to be disclosed. Navy Admiral Bobby Ray Inman, ret., is an "electronic investor" with an association as CEO at Microelectronics and Computer Tech. Corp., and Westmark Systems, Inc., Austin, Texas, with a "guiding hand" in over 2 dozen such enterprises. Admiral William J. Perry, ret., is associated with a number of electronic and high-tech enterprises such as United Technologies, Hambrecht Quist, Boeing, etc.

REQUIRED NOTIFICATIONS

28 USC 2403(a) does applies [Relative to the constitutionality of an Act of Congress being drawn into question], and the Solicitor General has been served. **28 USC 2403(b) does not apply** [Regarding the constitutionality of any statute of a state being drawn into question] because the Indiana Governor and Attorney General are already being served.

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IN THE

SUPREME COURT OF THE UNITED STATES

PETITION FOR WRIT OF CERTIORARI

Petitioner respectfully prays that a writ of certiorari issue to review the dispositions and matters below.

OPINIONS BELOW

The Orders of the United States Court of Appeals for the Seventh Circuit appear at **Appendix A** to this Petition and none are designated for publication. The Orders of the United States District Court appears at **Appendix B** to this Petition and are unpublished.

BASIS OF JURISDICTION

The date on which the final order of the Court of Appeals was enter is March 15, 2001. No petition for rehearing was filed. The statutory provision believed to confer jurisdiction to review the orders in question on a writ of certiorari is 28 USC 1254(1), and Article III, §2, cl.1, US Constitution.

CONSTITUTIONAL & STATUTORY PROVISIONS INVOLVED

SEPARATION OF POWERS

US Constitution (1789) Art. I, §1. ,Art. II, §1 , & Art. III, §1
Indiana Constitution (1851), Art. 3, § 1

CIVIL POWER OVER MILITARY

July 9, 1778 Articles of Confederation and Perpetual Union Art. I , Art. III. , & Art. X. Sec IV.

July 13, 1787 Northwest Ordinance of Congress. [Touching on: prohibition of any military draft or other abductive use of territorial inhabitants, harassment upon inhabitants' religious attitudes, practices or judgments, and compensation for rights deprivations] [¶ 20] (Art. VI.) , [¶ 15] (Art. I) , & [¶ 16] (Art. II)

US Constitution (1789) Art. I. §8 & Art. II, §2
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Indiana Constitution (1851) Art. I, § 33 , & Art. I, §34 , & Art. I, §21

50 USC 401 et seq., "National Security Act of 1947," EXECUTIVE ORDER NO. 12333 (Authorization Dec. 4, 1981, 46 F.R. 59941) (as amended) [Rights Violation Prohibitions"]
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Continued on p. 190 Apx. K (also Apx.D,p.75-79)

STATEMENT OF THE CASE

Facts material to consideration of Judicial Branch sanction or obstruction of adjudicatory process arise in a complex factual history upon corrupt and/or treasonous Executive Branch conduct.

(1978 -1990)

Indiana's Constitution requires its Governor as Chief Executive Branch Officer, to "take care that the laws are faithfully executed." Respondent O'Bannon (presently Governor) while a Legislator in 1981, authored Senate Bill 430 (Public Law 108) re-naming and re-categorizing, as civil infractions, over 70 minor Indiana Code Title 9 causes of state prosecution in purported avoidance of the constitution's funding requirement designating all "penal fines" for the Common School Fund Trust, upon a background of his 1978 Legislation: Senate Bill 300 revising all penalty provisions in accordance with the criminal code; Bill 241 prohibiting use of social security numbers by state agencies upon request; and Bill 323 establishing procedures for infraction enforcement. Before becoming Governor, in 1989 O'Bannon was Lieutenant Governor when Governor Evan Bayh signed into law the unopposed House Bill 1925 (P. L. 288) which purported to provide that "Deferral Program Fees" may be collected in place of costs or fees for infractions or ordinance violations.

(Nov. 27, 1996 - Jan. 2, 1998)

Petitioner, a person born in the US, is of mixed color [Apx.D, p.38-43, 54@Ftn.#1], keeping addresses in Michigan and Indiana. Relative to the Nov. 24, 1997 issuance of the underlying Indiana Code Title 9 non-moving "Civil Infraction Citation" in Bloomington, Petitioner was subject to Indiana's statutes requiring payment of vehicle excise taxes, title transference and license plate fees [Apx.D., p.31-32].

(BMV Set-Up)

In Indiana from Nov. 27, 1996 to the present, Petitioner has been denied enjoyment of the equal right to property ownership, specifically, a license plate and a marketable title, arising upon prejudicial comment and treatment by Bureau of Motor Vehicles (BMV) personnel [Apx.D, p.56,65], and since July 1, 1998, deprived of a valid drivers license as a result flowing from infraction prosecutorial deferral programs and practices. Without success, 5 attempts were made to discharge statutory duties between purchase of a used "Winter car" in 1996, and the

original "Notice of Removal" of the Monroe County Civil Infraction prosecution to the Indianapolis federal court on Jan. 2, 1998 [Apx.D, p.56].

(Infraction Arrest)

The initial Infraction Arrest occurred in the dark of the night, on an unlit common public thoroughfare, by big armed Indiana University Corporation Cops, while Petitioner was on route in participation in interstate commerce activities.

(Legal Duty Discharge)

Petitioner, with a tape recorder running, politely displayed her drivers license, and a signed-over Indiana Vehicle Title with Bill of Sale, proof of insurance, copies of relevant law, and provided the explanation that she had no license plate because she had been repeatedly and unlawfully refused BMV services.*

(Civil Infraction Citation)

Respondent University Corporation Cop Stephenson issued a non-moving "Civil Infraction Citation" with Summons not under the 1820 University Seal, but rather a photocopy of the Seal of the State of Indiana, for driving without a license plate (I.C. 9-18-2-29, a "Class C Infraction" with a maximum penalty of $500.00 and suspension of drivers license, if not promptly paid).

(Search and Seizure)

Petitioner's car was searched with questioning about its private innocent contents, then seized with impoundment at a distant non-disclosed location. No receipt was provided for the property seized, nor was Petitioner advised of her rights.

(Defamation, Confinement and Coercion)

Petitioner was transported in the back of said Corporation Squad Car to her residence in lieu of immediately being taken to jail upon the condition that she would sign the "promise to appear on a date and time certain in the Monroe County Courthouse" section of the "Infraction Citation," and upon doing so, was freed from the authority and confinement of said Cops and Squad Car.

(Disguising Lack of Authority)

Respondent University Corporation Trustees provide Squad Cars painted like those of the city policing authority, arming and costuming its Cops in an indistinguishable manner to casual observers from regular city police. During the Arrest and Seizure Incident, Petitioner did not realize that she hadn't been arrested by regular city police, nor that Respondent University Corporation Cops weren't "regular members" of any of the statutory police authorities authorized, under very limited

circumstances, to seize and impound non-license-plated so-called "abandoned" vehicles, nor that the County Sheriff/Indiana Department of Correction was not statutorily empowered to receive prisoners such as Petitioner from Respondent University Corporation Cops.

(Limited Resistance to Arrest)

After identifying herself as required, Petitioner did nothing more, in the nature of Resisting Arrest, than to cite and offer said copies of relevant law and ask if she was free to go on her way [Apx.H, p.157-158. Respondent Cops advised that if she left, they would come after her, precisely the kind "escalating violence potential" the Field Decision warned her of, and thus she followed its suggestion, by submitting to the wrongs and filing a suit for damages.

(Optional Infraction Money)

The obvious circumstance of no license plate, set-up Petitioner as an easy, lucrative target for the economic interests of County Prosecutor/ Respondent Salzmann's Infraction Deferral Programs, by which he enlarged his own office budget by $106,000.00 in 1997 and $199,000.00 in 1998 out of the revenue collected from persons like Petitioner from whom $82.50 was initially sought [Apx. D, p.54@Ftn.3]. Associated government contract towing and impoundment easily adds $200.00 - $300.00 depending how quickly cars are located and ransomed back. Petitioner's seizure retrieval (less than 48 hours later), took over 7 hours, in addition to the cash.

(Summons Discharge)

On Dec. 4, 1997 Petitioner discharged the Summons (not signing nor being ask to sign any continuance) by her Appearance in the Courthouse area directed by Deputy Sheriffs stationed at the building entrance. When her case was called, Petitioner stepped to where an authoritative man (later identified as Deputy Prosecutor/Respondent Trulock,) had been observed quietly and rapidly disposing of cases from a standing position behind the Clerk's main Service-Counter with command of, and assistance by, Respondent Haley's Deputy Clerks [Apx.J, p.163], [Apx.D, p.57].

(Bribery Solicitation)

He solicit Petitioner's money/admission of guilt for disposing of the Nov. 24, 1997 Complaint for $82.50. Petitioner's response was to asked for his name. This met with an intimidating, loud response, provoking Petitioner to say "I'm standing mute," upon

which Respondent Trulock directed Petitioner "get out," making a notation on a#10 envelope size piece of paper [Apx. J, p.163, 57@#6].

(Executive Branch "Hearing" and "Judge")

Petitioner was stunned and hadn't realized the person soliciting money and attempting to conduct arraignments wasn't a judge, until he tried to intimidate Petitioner further by threatening to "get a judge," dispatching one of the Deputy Clerks to do so. Observing Petitioner's approval of judicial involvement, he re-ordered the Deputy Clerk not to do so, and she stopped in her tracks and returned. Petitioner quickly had the Deputy Clerk Date-Stamp and file her "Appearance Form Criminal" [Apx.D, p.57,61] at an adjacent counter before leaving as she had been directed. The State Board of Accounts County Fee Book [Apx.E, p.129] also records Petitioner's Dec. 4, 1997 Appearance and the $82.50 sum demanded.

(Distress and Confusion)

On Dec. 9, 1998 (not knowing what to think, and upon concerns expressed by long term residents about ongoing county practices to obstruct and deny trial by jury) Petitioner personally filed and served a "Demand for Trial by Jury" [Apx.D, p.62].

(Dec. 18, 1997 Entry of Judgment)

Nine days later on Dec. 18, 1997 in the absence of Statutory Civil Court Process, Respondent Haley mailed Petitioner "Notice of the Entry of Default Judgment" upon an alleged failure to appear for a "traffic hearing" Dec. 4th, 1997, threatening suspension of Petitioner's drivers license on January 8, 1998 unless Petitioner paid the $82.50 Judgment by said date [Apx.D, p.56-63], [Apx.E, p.130].

(Covert Federal Executive Branch Intervention)

In approximately the last week of December, 1997 (while Petitioner was working on the Removal Notice via residential electronic devices) federal Executive Branch personnel undertook to covertly intervened in Petitioner's Infraction Case by certified mail to Respondent Haley, Monroe County Court Clerk, who, in part, responded by involving Respondent Bridges (County Judge, formerly of the Navy) who responded by involving Respondent Modisett (then Indiana Attorney General) [Apx. J, p.164]. Such covert undertakings against Petitioner, allegedly upon "national security interests" and "programs" will be addressed hereinafter.

(Removal Upon Non-Enforceable Federal Rights)
(INFRACTION REMOVAL)

The 1st formal record, raising federal questions was the Verified Notice of Removal filed Jan. 2nd, 1998 attesting to denial of meaningful access to the Judicial Branch and BMV, fraudulent extortionate money collection practices by mail, and deprivation of a republican form of government/separation of powers by state Executive Branch employees' obstruction of access and performance of the duties and prerogatives of Judicial Branch Office-holders, imposing a disability upon Petitioner to enjoy equally, or reasonably enforce, federally protected rights and privileges). Advance Notice of a civil rights suit was given too [Apx.D, p.58@12].

(Jan. 6, 1998 - Jan. 9, 1998)
(REMAND)

US District Court Judge McKinney, formerly a county circuit court judge during the 1979 to 1987 period when most adjudicatory changes in the handling of misdemeanor/infraction prosecutions were imposed, made his Jan. 6, 1998 abstention Remand "Entries," suggesting that despite corruption or bias, a state court appeal was the appropriate recourse [Apx.B, p.12-15].

(State Court Appeal)
(JANUARY 9, 1998 APPEAL)

On Jan. 9, 1998 Petitioner (unaware of the federal court's ongoing failure to return jurisdiction) proceeded as suggested by a "Claim of Appeal" with "Praecipe for Transcript of the Record on Appeal" directed to Respondent Haley as "Clerk of the Monroe County Court" [Apx.F, p.135]. On Sept. 22, 1999 over 1 and 3/4 years later upon the interventions of Indiana Court of Appeals Clerk Amanda Hillard, Respondent Haley provided the Praeciped Certification [Apx.G, p.139] necessary to the state court appeal moving forward as herein after reported. In the interim Petitioner was subjected to acts and omission by named Respondents and others including federal personnel, united in improper interests and agendas for blocking Petitioner's causes.

(January 10, 1998 - August 24, 1998)
(Disappearance of All Evidence of the Original Judgment)

Examination of the County "Chronological Case Summary" (hereinafter, CCS or Docket) and Record File shows that it was

repeatedly tamper with by at least two persons.* & **All case progress entries except the Jan. 9, 1998 Claim of Appeal disappeared by Jan. 20, 1998 [Apx. J, p.165]. No Docket Record purchased or provided after the Claim of Appeal showed the Dec. 18, 1997 Judgment [Apx.E p.130-131], [Apx.H, p. 153]. This critical evidence only became viewable in Monroe Clerk Certified Record at p.90 as part of the Removal Documents (as exhibit page 9 therein) [Apx. D, p.63].

(Non-sworn Jury Trial in Absentia)

On March 26, 1998 while the Jan. 9, 1998 state court appeal was pending, and prior to the expiration of the statutory 90 days within which court personnel such as Respondent Haley must either produce praeciped certification of records, or petition for appellate court orders extending production time, Respondents undertook a Jury Trial in Absentia against Petitioner who had yet neither been arraigned by any Judicial Branch judge or magistrate, nor provided with compulsory process for defense witnesses, nor summoned back to the Courthouse. Respondents associated with and paid for undertaking the Office of Monroe County Jurors, were NOT sworn to support either the Indiana or US Constitution. No Patterned Jury Instructions were set forth in open court, and only a small portion of relevant law was read. Respondent Kehr (otherwise employed as Deputy County Prosecutor), before allowing any of those summoned for jury duty to be seated as qualified, undertook to determine whether any of them knew their state constitutional duty to decide the law and the facts or were biased in favor of the law he sought have them impose against Petitioner [Apx.H. p.144-151]. After he found they were all both ignorant and biased, and in agreement with his position that there were no circumstances under which it would be all right to drive around without a license plate [Apx.H, p.146@17], he approved their seating as jurors, and with Respondent Bridges raised no reason to delay or complicate proceedings by binding them to oaths of constitutional office or duties. The less than half hour Trial in Absentia produced a Guilty Verdict within 3 minutes with such juror-interloper Respondents publishing that Petitioner was guilty of an "offense," contrary to relevant statutes making conviction of an "infraction," "not a crime," and "not an offense," a critical component of Respondent O'Bannon's infraction scheme's use of civil standards and courts [Apx.H, p.140, 150@16].

(Warrantless Breaking-in for Bugging & Furiousness)

Prior to Respondents associated with the Office of Juror entering into the courtroom, Respondents Bridges, Kehr, and Stephenson (otherwise employed as judge, deputy prosecutor, and university corporation cop respectively) discussed the Warrantless ("No Application") "B & E" /"Salt & Pepper On" surreptitious entry and bugging of Petitioner's residence during which time frame she had been engaged more than 2 months in preparation of the Civil Rights Suit referenced in the Removal [Apx.H, p.142]. In said immediate Pre-Trial Colloquy, Respondent Bridges stated he was "furious" at Petitioner, but these Respondents did not discuss the pending Civil Rights Suit, nor the reason for his rage.

(Double Jeopardy Plus Retaliations)

As soon as the juror-interloper Respondents exited the courtroom, Respondent Bridges entered the Judgment (according to the transcript) as a" fine of $124.50 plus costs," plus "costs assembling a jury " at $262.50 (totaling $462.50) [Apx. H, p.151]; however the Jury Trial Order [Apx. H, p.140] records a fine of $124.50 court costs of $75.50 (which the Docket records as including the Jury Pay Fund) plus $300.00 for the costs of assembling the jury (totaling $500.00). In addition, absent the statutorily required setting of a pay-by date, Respondent Bridges directed "the Clerk of the Court" (Respondent Haley) to notify the BMV of Petitioner's "failure to appear" for the purpose of causing Respondents associated with the BMV to enter suspension of Petitioner's drivers license, and he published an Arrest Warrant "for failure to appear" with a "$500.00 cash only bond" [Apx. H, p.152]). Said threats of license deprivation, arrest, and demands for money were imposed upon Petitioner through Respondents use of the US mail, and thus the Civil Rights Suit enlarged.

(Federal Civil Rights Petition)

(MAY 7, 1998 CIVIL RIGHTS SUIT)

On May 7, 1998, upon the assistance of Indiana University Law School Library staff, Petitioner caused the filing and service of a complex multi-count Civil Rights Suit with detailed allegations of fraud and 5 categories of defendants in US District Court.* While the suit flowed from BMV and Civil Infraction-related causes, the local hospital was included for its negligence and other acts flowing upon the necessity of alternative non-license-plated motorbike transportation resulting in broken bones and other harm [Apx.D, p. 113-120]. The case drew assignment to then Chief Judge Sarah Evans Barker.

(Defendants' Advisor Judge Barker Strikes the Complaint)

The 2nd formal record, raising federal questions was said Civil Rights Suit,** alleging deprivation of equal of civil rights, Executive Branch misconduct, victimization by the operation of (at Count 13) a "traffic infraction racket," etc. On May 12, 1998, the day after 13 defendants had been served the Complaint, Exhibits and Summonses (including then Indiana Attorney General Modisett [Apx.J, p.174]), Judge Barker made her "Entry Directing Further Proceedings," declaring the Complaint Stricken," allowing Petitioner 22 days, through June 4th to file an amended complaint (further verbally directing through a Deputy Clerk that such amended complaint "must be pre-approved by the Judge's Office before it would be filed by the Clerk's Office"). **Judge Barker's "Entries" record that copies were served only upon Petitioner** [Apx.I, p.162]. On June 4, 1998 upon discovery of Chief Judge Barker's advisory position and more with one category of Defendants (Indiana University Corporation), Petitioner filed the requisite motion, affidavit, and brief for recusal, as well as vacatur of her May 12, 1998 Striking Order.

(The Rubber Stamp of Judge Hamilton)

The May 7, 1998 cause* was reassigned to Judge David Hamilton, the former Staff Counsel to Governor Evan Bayh when Respondent O'Bannon held the Office of Lieutenant Governor, during which period the endorsement of the "Infraction Deferral Program" at issue in Count 13 of the lawsuit was undertaken. Judge Hamilton's taint as counsel for individuals intimately involved in setting up and enforcement of the "Traffic Infraction Racket" was not known to Petitioner on a timely basis, however these facts were known to both Judge Hamilton and Chief Judge Barker. On June 10, 1998, Judge Hamilton's former law partner or mentor (at arguably the state's premiere Law firm Barnes and Thornburg) Robert P. Johnstone, (Chairman of the litigation department at the same time when Hamilton's work focused on litigation), enter his Appearance for the same University Corporation defendants over which Judge Barker was recused. Judge Hamilton's re-assignment extended time through July 15, 1998 for filing the pre-approved amended complaint as designated by Judge Barker's Order, otherwise he essentially rubber-stamped all Chief Judge Barker's prior acts or holdings without vacating her prior tainted entries or freshly doing the judicial work.

(The Disappeared July 15, 1998 Filings)

On July 15, 1998 (firstly) the Process Server's Return of Personal Service on defendant on "Bob or Carol Doe" Tow-Truck Driver /a/k/a/ Mike Patton, (secondly) Petitioner's "Notice of Docket Errors & Request for Corrections" [Judge Bridges having been omitted or removed as a Defendant from the Docket listing], (thirdly) "Plaintiff's July 14th Response & Notice" [in mitigation of the order striking the Complaint], and (fourthly) Petitioner's Proof of Service, were lodged in the US District Court Clerk's Office with time-stamped copies being retained by Petitioner. By September 3, 1998 when Petitioner next purchased a copy of the Docket, none of these items were of record. The critically disappeared response in mitigation of the striking Order is copied herewith [Apx. D, p.113-120].

(Over-Reaching & Covert "National Security" Foul Play)

Petitioner neither sought pre-approval nor filed an amended complaint. Petitioner's "Response" in mitigation of striking cited the over-reaching of the Striking Order, prior Covert Military Intervention into Petitioners civil litigation by Navy personnel [Apx.J, p.190], discovery of "national security establishment"/military-associated "Clipper Chip" and "Scalar" things on Petitioner's computer, and incidents of foul play with the steering mechanism of Petitioner's motorbike (involving filing-off the fork bolts/steering, etc. inviting a fatal accident) [Apx.D, p.118-120]. It also referenced the 3 Counts of the Complaint involving the Infraction Racket, fraud, obstruction of justice, etc. Further such anti-Complaint-striking Response gave Notice, prefaced by "providing plaintiff does not meet with untimely incapacitation," that plaintiff-Petitioner would "timely seek review and corrective action at the Seventh Circuit Court of Appeals" [Apx.D, p.118-119 & 109-110]. On June 18, 1998 by use of the US mail directed to Petitioner, the BMV Noticed Suspension of the Drivers license [Apx.E, p.132].

(Untimely Incapacitation by Retaliatory Arrest)

A few days before, and leading up to Petitioner's Arrest at restaurant shortly after 8 pm on July 16, 1998, Petitioner had contacts with Civil Rights Suits defendant/Respondent Tow-Truck Driver Mike Patton for the purpose of negotiating him out as Patton represented that he intended to "go bankrupt" if Petitioner got the judgment sought on him. Further Respondent Patton asked Petitioner to re-write the lawsuit omitting everyone except perhaps the people at the BMV and hospital.

His request on behalf of the other defendant was politely declined. Respondent Patton then led Petitioner to believe that it was still possible to favorably move forward with his elimination from the suit, setting up two days hence, the July 16th meeting therefor and falsely informing that his friends at the "IU Police Department" with whom he had "checked-out" Petitioner, found that there was no Arrest Warrant, and if there ever had been, it was gone and nothing for Petitioner to worry about or sue over.

(Educational Executive Action)

Within about 10 minutes of said July 16th settlement meeting, three Squad Cars appearing to be of Respondent University Corporation with support from and others undertook execution of Respondent Bridges' March 26, 1998 Arrest Warrant [Apx.J, p.166] in the presence of Respondent Patton who after Petitioner was handcuffed and confined across the street from the restaurant in the University Corporation Squad Car of Respondent Stephenson, followed and made the comment to Petitioner that "you shouldn't mess with people" [Apx.D, p.100]. Petitioner was transported onto the Campus, to the Respondent University Corporation Trustees' "Residence Hall Administration Building" and subjected to cop questioning about her Civil Rights Suit and 3 "mug shot" before being further questioned while being transported solely by Respondent Stephenson to the Monroe County Jail where Petitioner (handcuffed and confined) was received by the Monroe County Sheriff/Indiana Department of Corrections and kept imprisoned 40 days in solitary confinement (except for a few hours) and was listed on the Sheriff's daily "pop sheets" as a "hold" with "no charge, no bond, and no release date" [Apx.D, p.104, & (Civil Rights Suit relief 105-112)].

(Deprivations & Intimidations)

During said imprisonment several Executive and Judicial Branch messages and official undertakings specially and individually targeted Petitioner for the purpose of conveying the health and life-threatening hazards of the Monroe County Jail and the speed and ease with which she would be released upon "just speaking to Judge Bridges in court." Petitioner's life was threatened after jail personnel provoked another inmate known for violent behavior thus predictably focusing rage toward Petitioner. Nonetheless, Petitioner did not legitimized any potential defense for Civil Rights Suit defendants by conduct

which might have been "construed" to mean that Petitioner, by speaking in Bridges' courtroom, had "voluntarily waived critical summons and subject matter jurisdiction defects" related to the Civil Infraction Trial in Absentia and underlying said Civil Rights Suit. Over a dozen written communications were provided to Respondent Sheriff's Jail Personnel, beginning about 72 hours after Arrest, with 'Notice of False Arrest and Imprisonment & Demand To Be Charged with a Crime Or Released Immediately,'also seeking access to a neutral judge because Bridges, Welch and Mann were named in said Suit [Apx,J, p.168-171].

(Bias & Prejudice)

Nonetheless, purportedly on "July 30," 1998 Respondent Bridges signed an Order [Apx.J, p.168], purporting to mandate SIRA (a non-government medical business) to perform radiological tests upon Petitioner. A Deputy Sheriff, transporting Petitioner to SIRA in such a way as to increase her risks of becoming diseased (by the closed, close confinement of the back of Community Corrections Van with a male prisoner who had a positive TB test), represented that an 8 1/2 by 11 inch size document in hand (but refused for examination by Petitioner) was "the Judge's Order" compelling Petitioner's cooperation at SIRA. The Jail Personnel, Medical Coordinator David L. Goodman and Tim Alward (M.D.) Medical Director, petitioning for said Order reference the prior delivery of Petitioner to SIRA, indicating the existence of another prior order secreted from the record. Said petitioners, privy to the fact that defendant Bridges' niece/Deputy Sheriff was in jeopardy of being fired, included Petitioner's written complaint against said Civil Rights Suit defendant's niece as part of their attachments in support of their petition [Apx.J, p.174] Petitioner had no timely Motion Hearing knowledge or representation at such Motion Hearing. SIRA refused to undertake any testing because Petitioner would not provide her signatures for formal indemnification and release from liability, nor for acknowledgement of personal incurrance of financial debt to SIRA. In such undertaking, Respondents' caused Petitioner to be exposed to the public in the SIRA waiting room and otherwise, shackled arms and legs to waist and, to be observed in such ill-fitting garments that in the absence of successfully holding up the lower garment, everyone would have been mooned, resulting in Petitioner subsequently being repeatedly viewed fearfully by two such persons who shop at

the only large grocery store which Petitioner can walk to.

(Infraction Judgment Payment for Ending Appellate Review) After more than two weeks imprisonment on "July 31, 1998" (without resulting in any change to the Sheriff's daily "pop sheets"), defendant/Respondent Bridges, by Jail Mail (without US Post Office "Round Dating") delivered to Petitioner in solitary confinement, his representations as to why Petitioner was being held:

> "...because you are refusing to provide information we must have before you can be released. The Court has found your ongoing refusal to be an act of contempt....not...because you...committed an infraction. Neither...because you have not paid the fines and costs assessed against you. You may obtain your release by requesting a hearing in court so that we may obtain the following information: 1.Your full name. 2....date of birth...place of birth. 3.Your residence address. 4.Whether you are employed or have other regular sources of income. 5.Your proposal on how you will pay the fines and costs..... [Apx.J, p.172].

At the time of Arrest and Imprisonment in the Monroe County Jail, cooperating Respondents seized Petitioner's Drivers License (reasonably informing to points 1, 2 and 3) and a large payment recently tendered for Petitioner's compensation for her Gourmet Catering Service (reasonably informing to point 4), as well as her reading glasses and all garments including shoes. Petitioner was subsequently deprived of clean garments for up to 14 days at a time, bathing up to 7 days at a time, adequate clean water and nutrition 40 days, use of a law library, access to court copies and both direct and indirect use of a copy machine necessary to compliance Judge Tinder's Court Order, use of magazines and books including Bibles, and kept for much of the time under continuous pulsating artificial lighting without access to daily newspapers or an outside window to track the passage of time, etc.

(Federal Habeas Corpus Removal Petition & Contempt Motion) (F E D E R A L H A B E A S P R O T E C T I O N) The 3rd formal record, raising federal questions was Petitioner's July 21, 1998 "Petition Under 28 USC §2254 For Writ of Habeas Corpus By A Person In State Custody," filed in Indianapolis July 23, 1998 [Apx.D p.121-128, & Apx.I, p.156-157], and assigned to US District Court Judge Tinder who formerly worked as deputy

prosecutor in the Indianapolis/Marion County Prosecutor's Office during the several years when Civil Infraction-related Bills changed how 70 to perhaps over 110 violations were prosecuted, and who from 1982 forward undertakes the responsibilities of the Indiana Supreme Court's Character and Fitness Committee, an uniquely elevated position for controlling the level of ethical fitness of state lawyers including judges. Such facts, not timely known to Petitioner, but known to Judge Tinder, identify him as with conflicts of interests in respect to any litigant, such as Petitioner, set about exposing the infraction/deferral money collection racket and its beneficiaries and supporters, the very circumstance that necessitated Petitioner's federal Habeas petition for protection and relief from the alleged corruption, criminals, and wrongdoers. **Said third federal 'rights vindication petition' referenced both the Removal, and Civil Rights Suit, and at Habeas Form Questions 5, 8 and 9 [Apx.D, p.122-123] identified the Dec. 18, 1997 fine only Judgment, the Jan. 9, 1998 Appeal and "the appeal result" of appeal-blocking** undertaken by evidence tampering followed by a Trial in Absentia all in the continuing absence of a Judicial Branch arraignment. **It further plainly sought federal 'removal'-like relief,** due to massive due process and equal rights violations of the US Constitution, and made **motions for "an Order to Show Cause" why Petitioner should not immediately and unconditionally be released "directed to the Sheriff," and a similar "Order directed to Judge Douglas Bridges as to why he should not be held in contempt of the 1-6-98 REMAND ORDER."** On Sept. 11, 1998 Judge Tinder made "Entries" dismissing Petitioner's Habeas Corpus Petition and Motions upon his finding that Petitioner did "not directly challenge her incarceration" and that she "had a meaningful remedy in the Indiana courts" and would need to file an appeal there "on the issue of contempt" [Apx.I, p.156-157].

(Federal Court Notice of State Defendants' Retaliation Upon Seeking Federal Civil Rights Vindication & Protection)

The 4th formal record, raising federal questions was Petitioner's "Friday [sic] August 6, 1998" document, titled "Plaintiff's Notice of Defendants' Retaliatory Punishment and Obstruction of Civil Rights Remedies, with Affidavit in Support and Motion to Hold Proceedings in Abeyance," which was delayed in production by deprivation of access to the means of reading, writing (such as use of a pencil), and mailing. Petitioner was only able to slowly read

and write one letter at a time after fashioning "pinhole eye glasses" out a scraps of paper on or about July 21, 1998. While this document was sent out through Jail Mail immediately after being signed and dated for filing in Petitioner's Civil Rights Case, it does not appear as filed in federal court until August 17, 1998 [Apx.D, p.100-102 & Apx.I, p.158]. In light of the aforesaid July 15, 1998 missing federal court filings, the fact should be noted that (in its last paragraph), **Petitioner petitioned** for whatever relief "may be considered prudent for the perseveration of the evidence which defendants and those assisting them may have interest in suppressing or destroying."

(Judge's "Motion" for Judgment)

On August 4, 1998, in the absence of every Civil Rights Suit defendants' motion for entry of judgment, US District Court Judge Hamilton, without explanation, undertook expansion of the Civil Rules of Procedure 41(b) for moving favorably on his own "Entry Discussing Selected Matters" upon the erroneously representation that Petitioner had abandoned the claims of her Civil Rights Suit (a fact contravened by the necessity perceived by un-named or named Civil Rights Suit Respondents undertaking felonious removal of Petitioner's aforesaid July 15, 1998 filings from the District Court Clerk's Office records, and incapacitating Petitioner by imprisonment) upon which he published his JUDGMENT that Petitioner's cause of action was dismissed without prejudice [Apx.I, p.159]. Further facts are that this piece of judicial enterprise, was dependent on defendants lawyers' Johnstone and Steger [Apx.J, p.167-1171@169(D)] cooperatively violating the Professional Rules of Conduct (3.3 "Candor Toward the Tribunal") in their failure to disclose material facts such as that Petitioner was under a disability upon having been arrested and held incommuicato in the Monroe County Jail upon the acts and omissions of their clients, the factual disclosure necessary to avoid assistance to clients' undertaking of wrong-doing for personal benefit.

(Compelling "Live" Summonses)

Through April, 2001 no one has quashed the Summonses. The court has refused to enter the Default Judgments for sums certain by calculation, statutorily applied for by Petitioner on June 4, 1998 as a result of 13 of the defendants having not bothered to either answer the Complaint, otherwise respond or have professional representation Appearances entered for them. The Docket, at line 26, records the Return of Process on then Indiana

Attorney General Jeffrey Modisett, but there is no record of anyone from his office entering an Appearance for any state defendants including Respondent Bridges and BMV personnel.

(August 24 - September 3, 1998)

(Release From Imprisonment & Another Telling "B & E")

Petitioner was released from custody of Respondent Sheriff into the Jail Lobby after 12 pm on Monday 24, 1998, immediately undertaking medical examination and a series of laboratory tests for hepatitis, etc. Later that day upon return to her residence, the heretofore locked Mail Box was found hanging open and Petitioner's computer had been tampered with necessitating a city police report for theft of her in-progress Correct-A-Flow Patent work, and the Clipper Chip and Scalar items complained of in her July 15, 1998 federal 'Response' filing in mitigation striking her Civil Rights Complaint [Apx.D, p.119-120] and 9 other interior "irregularities" were discovered omitted from the police report when Petitioner subsequently purchased a copy. The several reports of crimes to the city police both before and after this incident were found to be missing relevant facts and/or have false and misleading statement upon which case investigations end (such as 'does not want to prosecute').

(Pursuit of Vindication of Civil Rights in Federal Court)

On Sept. 9, 1998 Petitioner personally filed in Indianapolis federal court, documents firstly, protesting the aforesaid July 15, 1998 Disappeared Court Filings; secondly, protesting against defendant Mike Paton's Bad Faith & Vexatious "Settlement Conduct" in Conspiracy With Other defendants; thirdly, as provided for in Complaint, a "Count 13 Notice and Demand" for arrest and incarceration compensation [Apx.D, p.103-104, & 109-110; and fifthly "Notice of Forthcoming Mandamus Petition to the 7th Circuit Court of Appeals."

(Mandamus Relief - Not Appeal)

The 5th formal record, raising federal questions is the Petition for a Writ of Mandamus directed to US District Court Judge Hamilton. There being no "appeal" remedy permitted for complaints "dismissed without prejudice," the facts and "irregularities" of an enterprising disposition by the 7th Circuit Panel should be noted. Firstly, the Notice of Mandamus was timely filed and in the Indianapolis District Court on Sept. 3, 1998 and is recorded as Docket item #56. Secondly, Filing Fees imposed were "Paid Under Protest" and the Oct. 23rd, 1998

Document attesting to that fact, is ANOTHER MISSING DOCUMENT from both the Indianapolis District and Chicago Circuit Court Dockets [Apx.J, p. 175-176]. Thirdly, the Case Briefing for a Writ of Mandamus under 7th Circuit Docket as #98-3519 with US District Court Judge David Hamilton identified as the Respondent, was filed by Express Mail™ (#EG594586271US) Oct. 4, 1998 which package according to the Chicago Expedited Postal personnel "went missing" into unknown hands and places before being delivered to the Court, necessitating a refund for unacceptable delay while documenting another "no explanation" governmental situation besetting Petitioner, repeatedly the target of denied or delayed US Mail Services (including the refusal of Express Mail™ to the US Supreme Court with "Disappeared" police reports on the attempted theft and Petitioner's retrieval of such mail while on postal property) [Apx.J, p.182-184]. Fourthly, on October 14th the Chicago Panel, by an unsigned motion on its own un-cited initiative elected to "construe" the Mandamus Petition Brief and Appendix "as a notice of appeal," directing the 7th Circuit Clerk to send such construed "notice of appeal" back to the Indianapolis District Clerk to "be treated as filed in the district court on 10/6/98" (thereby immediately rendering it untimely as a appeal), further purporting to require Petitioner to pay the District Court Clerk $5.00 as is required for docketing "an appeal" (in addition to the $100.00 Mandamus Filing Fee already received at the 7th Circuit with the Oct. 4th Brief mailing). Fifthly, a close examination of the aforesaid Oct. 23rd, 1998 Missing Document shows that Petitioner was provided less than 24 hours to comply with its requirements and that she "Paid Under Protest" with proof of mailing [Apx.J, p.176], while preliminarily identifying such "construed" Panel Order as a "contrivance for finding her cause untimely" and "as an excuse for slamming the door on the appeal...." [Apx.J, p.177-180]. The Panel thus caused a second case number, 98-3682 with the BMV et al identified as defendants, to be associated with Petitioner's filing as the appeal docket, and without explanation for the irregularities noted below, such 7th Circuit-created appeal was "dismissed for lack of appellate jurisdiction" upon the manufactured untimeliness of the Court-directed recording of a notice of appeal, but even that had to be upon more "construing" of things and theories not raised, not recognized and not sought by Petitioner.

(Covert 7th Circuit Federal Executive Branch Interloping)

Said 7th Circuit Docket printed on Nov. 13, 1998 further omits the recording of the Clerk-Stamped Oct. 20, 1998 filing of Deputy Attorney General Jon Laramore [Apx.J, p.173-4]. His pleading is titled "Notice of Non-Involvement On Appeal Due to Lack of Service In The Trial Court." In substance it reads:

> The Indiana Office of the Attorney General, by Jon Laramore, Deputy Attorney General, respectfully *notifies* the Court that *appeal information* has been *received* in this Office in the above-captioned case. Our records reveal that there was no service in the trial court. We request that *all Deputy Attorneys General* be removed from the service list. This office will not participate in *this appeal* or write a brief unless directed to do so by this Court.

Firstly, the difference between a mandamus action and an appeal is fully understood in the Indiana Attorney General's Office. Secondly, the May 7, 1998 Civil Rights Suit and subsequent 7th Circuit Mandamus Dockets, both before and after, the above Notice, HAVE NO DOCUMENT SERVED BY PETITIONER FOR THE UNDERTAKING OF AN APPEAL. Thirdly, there is NO Docket evidence in either court showing that anyone else sent out the "appeal information" to which Dep. Att. Gen. Laramore refers to in his Notice. Fourthly, neither of the Dockets record ANY INDIANA DEPUTY ATTORNEY GENERAL being served by anybody so that he or she would be in a position to request being "removed from the service list." Fifthly, the District Court Clerk Docket entry #26 records certified return-receipt service of the Complaint, Exhibits, etc. on Attorney General Jeffrey Modisett on May 11, 1998 [Apx.J, p.274]. Sixthly, both Courts' Dockets shows that NO lawyer from the Indiana Attorney General's Office entered his or her "Appearance" at either the Indianapolis Civil Rights trial court level, or the Chicago Mandamus level court.

(More Enterprising 7th Circuit "Construing")

On Nov. 2, 1998 in response to Petitioner's Motion for sanctions against Att. Gen. Laramore (Petitioner going by the fact of what she is served-- never being served any of the papers which courts and certain others receive covertly upon special purported Department of Justice Programs from lawyers, "Black Flagg File" federal so-called "private sector" personnel, or the purported military), the enterprising Panel "construed" the same as a

"motion to reconsider the motion of 10/20/98, order of non-involvement," and thereupon denied her motion for compensation, etc. against Laramore. The Docket shows no Oct. 20th Motion (although Petitioner secured evidence of it [Apx.J, p.173]), and further said "order of non-involvement" is also MISSING, setting the Panel's "construed" disposition upon a disappeared foundation.

("Construed" Mess With Refusal to File Clarification Motion)

Firstly, on Oct. 29, 1998 Petitioner filed her "Motion for Abeyance Pending Clarification," which reads in part:

> ...Petitioner...was concurrently directed to undertake the filling of a Notice of Appeal. This development render[ed] an already confusing situation even more so, and it became extremely confusing in light of the US District Court Clerk letter mailed October 20th claiming Petitioner had already "filed a`Notice of Appeal...on 10-06-98" and is therefore required to serve and file (with the Seventh Circuit Clerk) a "Docketing Statement" "within 7 days of the filing of the "Notice of Appeal." It is properly observed that if imposition of such a time schedule is laid against Petitioner, she would need to have had the task accomplished about a week BEFORE the lower court even mailed the envelope, and about 10 days BEFORE she had any knowledge of the matter whatsoever, and such "Docketing Notice" purports to have been required to be filed in [the] Seventh Circuit in Chicago on or before October 13th which is TWO Days Before this Honorable Court even mailed its October 14th Order with its related clerk's directives. Petitioner doesn't know what to think of such vexatious presentments, but observes that the Indianapolis District Court Clerk's directive appears to be calculated for setting Petitioner upon a fool's errand. The confusion (and any appropriate scheduling) needs to be clarified, particularly as to whether or not a notice of appeal has been filed and served, and if so, by whom and upon whom, and upon what legal authority, or whether Petitioner is properly directed to file a "notice of appeal," and if so, and in either case, how is the purported time requirement related to the "Docketing Statement" is to be prudently handled?

Petitioner states for the record the fact that she did

NOT "File a Notice of Appeal...on 10-06-98" and that her research failed to locate any legal authority that would support the construing a jurisdictionally timely "Petition for a Writ of Mandamus," as a viable "Notice of Appeal" which was jurisdictionally 'out of time' prior to the Mandamus Petition filing date. A discerning study of the one-page October 14th Order, reveals the appearance of the setting-up of a fatal jurisdiction defect later usable for ducking any meaningful review of Petitioner's cause of action, much less providing the necessary corrective remedies which would otherwise be viable in the jurisdictionally adequate Mandamus Petition. Petitioner presumes this disingenuous appearance is simply a matter in need of clarification, and is unintentional or regrettable....

Secondly, on Nov. 2, 1998 Petitioner filed her "Notice of Non-Waiver of Jurisdictional Issues & Apparent Errors Pending Clarification" which reads in part:

Now Comes Petitioner Johnston to give NOTICE (1) that she has NOT waived jurisdictional issues related to her Petition for a Writ of Mandamus, and she has done NOTHING, and intends to do nothing which may properly be construed as her consent to participate in the undertaking of a notice or claim of appeal or toward perfection of an appeal until this Honorable Court provides a clarification of its October 14th, 1998 Order demonstrating a statutory and factual basis for so undertaking, and further that she has NOT filed an appeal notice...

Thirdly, a 7th Circuit Order dated Nov. 11, 1998 "construed" the above two motions "as motions to reconsider the court's order of 10/14/98 [the order setting up an appeal]," denying them without clarification or explanation. Fourthly, on Nov. 18, 1998 by expedited mail service Petitioner's "Motion for Further Clarification or Alternative and supporting affidavit" [Apx.J, 177-180] was received by the Chicago Court of Appeals "Operations Director Eric Frost" who refused to file it and returned it to Petitioner with his criticism [Apx.J, p.181]. Petitioner took the matter up with the Administrative Office of the US Courts (Beth Garbo) and also Mr. Gino Agnello, 7th Circuit Clerk, requesting that said motion be appropriately filed [Apx.J, p.185]. Thereafter the motion was recorded on the

Docket as Nov. 19, 1998, the date it was entitled to. *Said Motion remains undecided in the 7th Circuit*, and Petitioner filed an unsuccessful (Feb. 8, 1999) Petition for a Writ of Mandamus which the 7th Circuit recorded on its Docket at Feb. 23, 1999. Thus the 6th formal record, raising federal questions was the Original action, "In re Miss Lynn Johnston, Petitioner, v The Hon. David F. Hamilton US Dist. Court Judge, Bureau of Motor Vehicles Comm., et al, On Petition for Writ of Mandamus to the Seventh Circuit Court of Appeals," filed in the US Supreme Court as no.99-1294.

(September 1999 to May, 2000)

(Back in the State Court System-Praeciped Record Certification) Praeciped Record Certifications necessary to perfecting the Jan. 9, 1998 state court Claim of Appeal were not provided for over a year and three quarters (in late Sept. 1999), and only then after several interventions by Indiana Court of Appeals Deputy Clerk Amanda Hillard [Apx.G, p.136-9]. Petitioner's Indiana Court of Appeals documents, and the Court's Docket show that within hours of fulfillment of the Praeciped duty of the County Clerk, Petitioner had tendered all the required items to the Court of Appeals Office [Apx.C, p.19-20]. Further the Docket shows that Petitioner was not allowed to proceed with her appeal of right, but instead was diverted and blocked by being required to first submit a motion, required to be titled in a specific manner (Motion to Belatedly Proceed with January 9, 1998 Praceiped Claim of Appeal & Discretionary of Subsequent Trial Court Proceedings & Documents with Affidavits & Other Support).

(Covert Executive Branch Interloping in State Appellate Courts) Said Motion was denied on Nov. 23, 1999 purportedly upon the decision and signature of Court of Appeals Chief Judge Sharpnack [Apx.H, p.155]. Close examination of said Court's "History Listing" which interlopes as the bona fide court docket, [Apx.C, p.19] shows that Respondent Bridges, and "Steve Lancaster (unknown to Petitioner), are listed, among others as appellees, but their Appearances are MISSING, and no service of such Appearances or any related pleadings was served upon Petitioner. Further the 10/20/99 entry [Apx.C, p.20] in effect represents falsely that the first Appearance for the state, was that Notice which was filed by Deputy Attorney General Andrew Hedges on Oct. 20, 1999. Hedges was used in a compartmentalized fashion by others in the Executive Branch

whose Appearances" do not appear on the contrived "History Listing," and in opposition to such Docket representation, examination shows that what Hedges filed was actually a notice of "substitution of attorneys" [Apx.J, p.189]. Moreover, while Respondent then Attorney General Modisett had been served Petitioner's papers in pursuit of the Claim of Appeal filed Jan. 9, 1998, on Sept. 21, 1999, Hedges' purported initial Notice of Appearance wasn't until nearly a month later. Then TWO DAYS after he had actually been substituted-in for whomever it was covertly representing purported government interests from Sept. 21st to Oct. 20th (if not prior also), OUT OF SEQUENCE in the contrived "History Listing" at the place immediately following Petitioner's initial Court of Appeals filing of the Notice of Appeal, is found the first "RS" [Randal Shepard is the Chief Justice of the Indiana Supreme Court] entry which "NOTES" the DAY BEFORE Petitioner's pleadings are filed, that the case is to be CLOSED/DISMISSED in 20 DAYS. Within 2 weeks of Hedges' actual substitution-in, he is replaced by Deputy Attorney General, J.T. Whitehead, which is immediately followed by "RS" again associated with transmission of the five star "DOCKET SHEET" FOR DISMISSAL 11/16/99. At 1/05/00 a ten star "RS" records a transmission "on transfer" 26 days AFTER the filing of Petitioner's request for state Supreme Court review, raising unanswered questions in light of the fact that nine days later on a Friday at the 1/14/00 entry, a four star note records that "THE TENDERED ARTICLES" [Petitioners' pleadings and whatever whomever conveyed on 1/05/00] were "SENT TO THE SUPREME COURT FOR REVIEW" [Apx.C, p.21]. The following Wednesday, 1/19/00 purportedly Randall Shepard Chief Justice and all Justices concurred that Petitioner's cause would not be heard in the Indiana Courts [Apx.H, p.154]. Attorney General Modisett unexpectedly left the practice of law and re-located in another state to work in the electronic or computer industry. The state and federal dockets and other records show that persistent pattern of "irregularities" did not terminate concurrent with his removal from a position of authority. The state court appeal suggested in the Remand was thus obstructed and all Petitioner's briefs, exhibits (including the illegal bugging tape evidence), appendices, and court filing fee were returned to Petitioner, whereupon an unsuccessful petition for review (April 18, 2000) to the US Supreme Court ensued. This

was the 7th formal record, raising federal questions, titled "In re Lynn D. Johnston, Petitioner, v The State of Indiana, Respondent, On Original Jurisdiction Petition for Extraordinary Writs to the State of Indiana" US Supreme Court no. 99-1696.

(June, to December 3, 2000)

(STATE COURT § 1983 SUIT)

("State Court Section 1983, ETC. Complaint Against Conspiracy Violating Civil Rights Under Color Of Law")

The 8th formal record, raising federal questions was the "State Court Section 1983, ETC. Complaint Against Conspiracy Violating Civil Rights Under Color Of Law" filed in the Monroe County Clerk's Office on July 18, 2000 with Jury Trial Demanded and Notice that "Court access fees solicited as a condition of petitioning pursuant to the First Amendment for redress of grievances in the Judicial Branch are **paid under protest.**" Said petition is reproduced in full herewith [Apx.D, p.64-85] and it embraces by reference all the other obstructed complaints, petitions and/or pleadings. Indiana civil procedure provides for the petitioner is such civil litigation to fill out a form provided by the county clerk, designating the manner in which the complaint and summons are to be served, after which the task and any related expense, is taken care of by the county clerk in consideration of the filing fee. Petitioner designation was by certified-return receipt US Mail. The case drew assignment to Judge Mann, who issued an order disqualifying herself on July 25, 2000, forwarding the matter to court administrative offices in Indianapolis for re-assignment by Indiana Supreme Court order.

(Exposure On The Public Record)

Examination of the Monroe Case File shows massive fraud put forth in the purported effectuation of said service of process. **The only defendant to have filed a responsive Answer to the Complaint is Defendant Elizabeth Mann,** the former County Treasurer from 1978 to 1981 and Monroe County Attorney or Deputy from 1981 to 1983 (a time frame uniquely important to the prosecutorial deferral/infraction racket alleged in the Complaint) and the former law office associate of Attorney Carmin (JAG military lawyer/US Army Major who has entered his Appearance representing known, and unknown Defendants). **Career Deputy Attorney General Duga, covertly with others involved in the associated litigation, entered his Appearance on the public record for BMV and Judge Defendants, including Mann,**

but she thereafter changed representation to what appears to be a private sector firm who served her Answer. County Attorney Steger initially claiming to represent interloper-juror Defendants and others, purportedly handed them off to be represented by his former law firm associate, William Kelley.

(Repeated State Court's Disappearing File Routine)

Every time, from the Summer of 1998 forward, Petitioner appears in the Monroe County Courthouse administrative-office, the silent alarm is activated and Monroe County Deputies, if not Respondents as well, come charging in to observe or intimidate Petitioner. By Fall, 2000 when Petitioner would go into the Courthouse for the purpose of examination and buying copies of the July 18, 2000 'rights vindication' case papers, it had disappeared, keeping both Petitioner and all electronic and print media from reviewing it during the politically sensitive period leading up to Respondent Governor O'Bannon's re-election in Nov. 2000. The main floor office Deputy Clerks represented that they didn't have the case file, that it was "upstairs" in the administrative office, while the "upstairs" court administrative personnel represented that they didn't have it because it was in Indianapolis, and none of them could say where, or what office, or with whom. The Monroe County Docket failed to showed any order re-locating or suppressing public access. In late November, 2000, Petitioner phoned the Indiana Supreme Court for an estimate of how much longer before its would provide its Order for assignment of another judge for the litigation. Petitioner was informed that it was apt to be another four to six months, but it could be longer. Upon such facts, and with concern for the undecided pre-discovery motions and matters pending since early August 2000, Petitioner was factually compelled to try to enforce her rights by federal Removal Expansion in spite of ongoing onerous transportation problems.

(December 4, 2000 - January 15, 2001)

(SECTION 1983 REMOVAL MOTION)

(US District Court Removal Expansion Covertly Opposed)

The 9th formal record, raising federal questions was the Dec. 4, 2000 "Motion for Removal Re-Activation & Expansion with Relief from the Limitations of 26[sic] USC 1446(c)(2), with Brief, Exhibits and Proposed Show Cause Order" [Apx.D, p.30-99]. This motion was based upon the discovery that the original Jan. 2, 1998 Removal/Remand had not been court certified back to the

clerk of the state court (required by federal removal statute in order to return jurisdiction). US District Court Judge McKinney's Order [Apx.B, p.10-11], denying all federal enforcement or protection of Petitioner's rights, represents that the matter of return of state court jurisdiction would be taken care of. Examination of the relevant portions of both the Monroe County infraction Docket, and the State Court Section 1988, ETC. Complaint Docket, expose the ongoing failure to do so [Apx.B, p.11]. Further the District Court Docket shows that no Appearance was filed by anyone from the Indiana Attorney General's Office. Nonetheless, examination of McKinney's Order [Apx.B, pp.6,9] shows that the Honorable Judge knew to serve 'General Duga.'

(January 15, 2001 to June 12, 2001)

The 10th formal record, raising federal questions was the attempted 7th Circuit Appeal of Judge McKinney's aforesaid disposal of Petitioner's said 'Removal Expansion' Motion. Proceeding within the options of the US Code governing court procedure (Rule 6(c)), Petitioner, having been "served a paper" relative to which she "has the right or is required to do some act or take some proceedings with a prescribed period after the service of a notice or other paper" within the District Court system, and "the notice or paper is served upon the party by mail, 3 days shall be added to the prescribed period." Petitioner, having been served the Honorable Judge McKinney's Order by mail, carefully calculated the days and timely filed her Notice of Appeal in the District Court under its applicable time calculation rules, personally handing her Notice of Appeal to the postal clerk in Indianapolis Airport Post Office (the only regional post office open on the Martin Luther King Holiday), so that it would be postmarked that day and so it would be in the US District Clerk's Office the following day when it opened. The Docket shows that it was thus entered as Jan 16, 2001 onto the District Court Docket as "Notice of Appeal to United States Court of Appeals for the Seventh Circuit" [Apx.D, p.24-25] with the "Docketing Statement" [Apx.D, p.26-29].

(More Fool's Errands Diverting Attention From Covert "Ops")

The 7th Circuit NOTICE OF DOCKETING APPEAL shows [Apx.A, p.5 & Apx.C, p.17] Petitioner's Appeal was entered and scheduled for briefing, and entered onto the Docket as of January 23, 2001. On the apparent order of Judge Diane Wood, the course of proceedings for Petitioner's was interrupted, and in a manner of

the District Court [Apx,B, p.6-8], duly made and denied.

(Secret Lawyer for Covert Executive Branch Court Actions)

The documents show that the Honorable Judge McKinney's service of his Order on the non-Appeared 'General Duga.' Further said 7th Circuit Docket [Apx.C, p.16-18] as highlighted in bold print, evidences **Covert Appointment of Counsels for Petitioner** [Apx.B, p.17 at entries 1/23/01, 1/24/01, 2/7/01 & p.18 at entries 2/20/01, and 2/22/01]. Said Covert Lawyers, purportedly for Petitioner, are not the first so engaged. As her theoretical servants, they act without her permission or authority; and none of them have ever consulted directly with Petitioner with regard to the options of and in any course of theoretically zealous advocacy. Further the documents show that after 'General Duga' covertly interloped into the domain of Honorable Judge McKinney [Apx.B, p.6], Ms. C. "Motley" ["Project" name/person] for such special orders was exposed on the Docket [Apx.C, p.18 at entry 3/6/01]. Thus 7th Circuit Panel Dismissed the Appeal on March 15, 2001, from which this Certiorari Petition timely follows.

Petitioner's Covert/Black "Ops" Facts

Petitioner is a citizen who has authored writings, has signed, drafted, and circulated political petitions, and who has been involved in whistle blowing since the mid-70s. Her **Who's Afraid of the IRS?** book took the position that the IRS, and all public servants should obey the law. Therein IRS criminal activities were exposed in which visits were made on federal and state judicial authorities and personnel for the so called purpose of "educating them about the gravity of the tax rebellion" so that when Department of Justice pleadings or courtroom characterizations identified a citizen as "that tax protester," the judge would take his cue and see that the citizen was treated differently. Such Executive Branch obstruction-of-justice criminals hadn't yet paid a visit to influence the judge hearing Petitioner's first criminal tax case, and the resultant verdict was not-guilty. Petitioner came into possession of the minutes of one of the meetings of such Executive Branch criminals, and published them, and exercised her First Amendment right condemning the conduct. **This irritated the Executive Branch, and an attempted indictment failed.** Thereafter Petitioner had troublesome visits by personnel in low-flying black choppers, and was shortly thereafter the target of a very good professional marksman. The Navy in particular

became irritated with Petitioner for signing a petition against its Project Sanguine, and for asking public questions as a Libertarian US Senate Candidate about cobalt bombs being tested under the Great Lakes. Petitioner got no answers, but a second attempted assassination. Petitioner was shortly thereafter warned by a federal government employee of the attempted undertaking of a "hit" on Petitioner being sought by Executive Branch federal employees. Shortly thereafter, Petitioner was assaulted by a professional"double overhand Suto" karate chop to the head and neck resulting in life-changing injuries, for which she has not yet been compensated. Petitioner had been provided with information to the effect that her assailant may have been one of the victims himself of one of the "Black Ops" projects gone operative whereby he himself was used as a "Manchurian Candidate" hypno-mind control assailant carrying out "his duty." The course of the injury-related litigation in the Michigan courts, is of the same stripe as the instant litigation, and the judgments were also refused entry by court clerks there. Navy lawyer Bergersen, covertly entered the case [Apx.J, p.190]. Petitioner has repeatedly been abducted by the US military, and while is it trendy "New Age P.R." to speak of seeing and feeling the "little grey aliens," Petitioner subsequently recognized a couple of those Navy personnel who were present during her abductions when they gave interviews on tv (Bobby Inman and William Perry). Petitioner has been subjected to bodily violation via "tagging implants" [example @Apx.J, p.188], infrasound and such "micro/nano military toys" and brain assaults by 20th Century "secret invention," electromagnetically producing "visions" that bespeak of a grand deception, and a inappropriate use of public funds, and other improper conduct. Petitioner has filed complaints relative to such nefarious goings on with the Department of Justice, to no avail. Petitioner has been informed that she is alleged to be a threat to the" national security" and is in a special justice program approved by the Department of Justice. Petitioner's former postal delivery person disclosed he was run off the road by FBI men form the Detroit area who seized her mail, thus was withdrawn Petitioner's invitation for oral argument on consolidated cases at the Sixth Circuit Court of Appeals. Petitioner has been provided with a portion of the Black Flag File of Executive Branch personnel who covertly "fix problems" (from the Executive Branch's viewpoint) while in positions of facilitation in the Judicial Branch; and said

personnel are not all judges and lawyers, and not all employees in the Judicial Branch. Petitioner has spoken out on this issue and written on it, taking the position to the effect that judges shouldn't be CIA agents, or the like. Petitioner irritated at lot of judges and lawyers when, as a consequence of having been a founding member of the **Federalist Society** she started protesting its acceptance of CIA funding. In addition to violation by implant "bugging," Petitioner has had domestic electronic equipment bugging as well as manipulative "Passport" or "Authority" type governmental call screening imposed, etc. and essentially continuous governmentally imposed problems and interference in both public and private affairs for more than two decades. Petitioner's opening remark in the allegedly infamous book is "When the government ignores the law, freedom of speech against it, is the first thing that must be chilled."

REASONS FOR GRANTING THE PETITION

Petitioner contends that her cause demonstrates facts and a pattern beyond ordinary corruption or the occasional selling of "discretion," and that the facts do speak for themselves. The facts show that Petitioner is a disenfranchised citizen, and that the Judicial Branch has thus far been too corrupt, or too cowardly to go toe to toe with the dark shadows whose footprints are all over the Judicial Branch domain. Petitioner contends those of the Black Flagg are of treasonous intent; that its target is the children and their education. It is through conversion of the revenue due, under the state constitution, to the Common School Fund Trust, that this cause comes for the resolution and protection of this Court. Addressing the problems of the Supreme Court, the late Professor Harold Kohen observed that "there is another world out there that it closes to ignore or fears to recognize." Petitioner submits it it time to have a look, and do the right thing. Petitioner's case is a ripe vehicle for reforms long overdue. Let Orders Issue.

Respectfully submitted,

June 13th, 2001

Miss Lynn Johnston

A P P E N D I X

Appendix A .....7th Circuit Court of Appeals Orders
Beginning at page A-1

Appendix B ..... United States District Court Orders
Beginning at page B-

Appendix C .....Docket Records
Beginning at page C-16

Appendix D..... Petitioner's District Court Filings
Beginning at page D-24

Appendix E.....Original Infraction Judgment State Court Records
Beginning at page E-129

Appendix F..State Court Appearance, Appeal Claim & Praecipe
Pages D-61 and F-133-135 only

Appendix G.....,....*Production of Praeciped Certificates*
Beginning at page G-136

Appendix H.....Double Jeopardy Infraction State Court Records
Beginning at page H-140

Appendix I....Double Jeopardy & Related Federal Court Records
Beginning at page I-156

Appendix J.....Executive Branch Interest
Beginning at page J-163

Appendix K.....Law
(Continued From Petition Page 2) Beginning at page K-190
(Also See the "LAW NOTE" served with the July 18, 2000 "State Court Section 1983, ETC. Complaint Against Conspiracy Violating Civil Rights Under Color of Law" herein at Apx. D, p.75-79)

(See Table of Contents Pages 5 for Detailed Descriptions)

Petition / Appendices Separator Page

United States Court of Appeals
for the Seventh Circuit
Chicago, Illinois 60604
March 15, 2001
Before
Hon.WIlliam J. Bauer, *Circuit Judge*
Hon.Daniel A. Manion, *Circuit Judge*
Hon ILANA DIAMOND ROVNER, *Circuit Judge*

LYNN JOHNSTON,
Plaintiff-Appellant

No. 01-1182 v.
Monroe County Court,
Defendant-Appellees.

Appeal form the United States District Court for the Southern District of Indiana, Indianapolis Division. No. 98 C 621

Larry J. McKinney, Chief Judge

ORDER

On consideration of the "JURISDICTIONAL MEMEORANDUM" filed by plaintiff-appellant on February 6, 2001, and the "STATUS REPORT NOTICE" filed by plaintiff-appellant on February 26, 2001, and a review of the short record, including the district court's order of February 20, 2001, denying an extension of the time to appeal,

IT IS ORDERED that this appeal is DISMISSED for lack of jurisdiction.

Rule 4 (a) of the Federal Rules of Appellate Procedure requires that a notice of appeal in a civil case be filed in the district court within 30 days of the entry of the judgment or order appealed. In this case the order denying appellant's "motion for removal re-activation" was entered on December 12, 2000, and the notice of appeal was filed on January 16, 2001, five days late. The district court denied an extension of the appeal period, see Rule 4 (a) (5), and this court is not empowered to grant an extension. See Fed. R. App. P. 26 (b).

We further conclude that the district court did not abuse its discretion in denying appellant's motion to extend the time to appeal.

[no seal, signatures, or stamps]

United States Court of Appeals
for the Seventh Circuit
Chicago, Illinois 60604

February 22, 2001

By the Court:

LYNN JOHNSTON, Plaintiff-Appellant	Appeal form the United States District Court for the Southern
No. 01-1182 v.	District of Indiana, Indianapolis
Monroe County Court,	Division. No. 98 C 621
Defendant-Appellees.	Larry J. McKinney, Chief Judge

ORDER

On consideration of the "DEFENDANT [sic] APPELLANT'S STATUS REPORT" filed on February 20, 2001,

IT IS ORDERED that plaintiff-appellant file, on or before March 7, 2001, a further status report regarding the disposition of her motion to extend the time to appeal.

Briefing shall continue to be SUSPENDED pending further court order.

[no seal, signatures, or stamps]

United States Court of Appeals
for the Seventh Circuit
Chicago, Illinois 60604

February 7, 2001

By the Court:

LYNN JOHNSTON,
Plaintiff-Appellant

No. 01-1182 v.
Monroe County Court,
Defendant-Appellees.

Appeal form the United States District Court for the Southern District of Indiana, Indianapolis Division. No. 98 C 621
Larry J. McKinney, Chief Judge

ORDER

On consideration of the "JURISDICTIONAL MEMORANDUM" filed by plaintiff-appellant on February 6, 2001,

IT IS ORDERED that plaintiff-appellant file, on or before February 21, 2001, a status report regarding the disposition of her motion to extend the time to appeal file with the district court.

Briefing shall continue to be SUSPENDED pending further court order.

[no seal, signatures, or stamps]

United States Court of Appeals
for the Seventh Circuit
Chicago, Illinois 60604
January 24, 2001

By the Court:

LYNN JOHNSTON,
Plaintiff-Appellant

No. 01-1182 v.
Monroe County Court,
Defendant-Appellees.

Appeal form the United States District Court for the Southern District of Indiana, Indianapolis Division. No. 98 C 621
Larry J. McKinney, Chief Judge

ORDER

Rule 4 (a) of the Federal Rules of Appellate Procedure requires that a notice of appeal in a civil case be filed in the district court within 30 days of the entry of the judgment or ordered appealed. In this case the order denying appellant's "motion for removal re-activation" was entered on December 12, 2000, and the notice of appeal was filed on January 16, 2001, five days late. The district court has not granted an extension of the appeal period, see Rule 4 (a) (5) , and this court is not empowered to do so, see Fed. R. App. P. 26 (b) . Accordingly,

IT IS ORDERED that appellant, on or before February 6, 2001, file a brief memorandum stating why this appeal should not be dismissed for lack of jurisdiction. A motion for voluntary dismissal pursuant to Fed. R. App. P. 42 (b) will satisfy this requirement. Briefing shall be suspended pending further court order.

If appellant wishes to request an extension of time in which to file the notice of appeal, she should file an appropriate motion in the district court, not this court, as soon as possible. Appellant's jurisdictional memorandum should include a discussion of the status of any such motion.

NOTE: Caption document "JURISDICTIONAL MEMORANDUM." The filing of a Circuit Rule 3 (c) Docketing Statement does not satisfy your obligation under this order.

[no seal, signatures, or stamps]

United States Court of Appeals
for the Seventh Circuit
Chicago, Illinois 60604

NOTICE OF DOCKETING APPEAL

Appeal No.: 01-1182 Date: January 23, 2001

TO: Lynn Johnston
#243
816 Auto Mall Road
Bloomington, IN 47401-0

Counsel of Record for the following Appellant(s):
(This court's practice is to only list the first 5 parties per side.)
Lynn Johnston

Caption:
LYNN JOHNSTON,
Plaintiff-Appellant
v.
MONROE COUNTY COURT,
Defendant-Appellee

District Court Information:
No. 98 C 4
Chief Judge Larry J. McKinney
Southern District of Indiana, Indianapolis Division

Date Notice of Appeal filed in District Court: 1/16/01
Date Appeal docketed in Court of Appeals: 1/23/01
Current Fee Status: pd
Pending Deadlines: Fee:
Appellant's Brief: 3/5/01
Docketing Statement:
Transcript Information Sheet: 2/2/01

NOTE: This notice is issued to counsel of record, in furtherance of the revised Circuit Rule 3 (d), to provide necessary information regarding his appeal. Please verify this notice for accuracy. Counsel are encouraged to provide a fax and/or e-mail address to the court. If any corrections are necessary, please indicate those corrections on this notice and return it to the Clerk's Office within ten days.

THIS NOTICE SHALL NOT ACT AS A SUBSTITUTE FOR MOTIONS FOR NON-INVOLVEMENT/SUBSTITUTION OF COUNSEL. COUNSEL ARE STILL REQUIRED TO FILE THE APPROPRIATE MOTIONS.

(1229-032897)

United States District Court
Southern District of Indiana

LYNN D. JOHNSTON
Petitioner,

v. **Cause No. IP 98-0004-C-M/S**

Criminal Case No. 53 C 05 9711 IF
079[sic]36, MONROE COUNTY COURT,
Respondent

ENTRY

The court has considered the status report filed by petitioner Johnston on February 24, 2001.

Because the plaintiff's status report has been served on counsel for opposing parties, and because the state report does not seek relief in or from this court, no further action will be taken on it.

Date: March 1, 2001 /s/ LARRY J. McKINNEY. Chief Judge
United States District Court

Copies to:

Lynn D. Johnston
816 Auto Mall Road #243
Bloomington 47401

William H. Kelley[*]
P.O.Box 3250
Bloomington 47402-3250

Terry Duga[*]
Office of the Indiana Attorney General
Indiana Government Center South, Fifth Floor
402 West Washington Street
Indianapolis, IN 46204-2770

[* The 7th Circuit Docket (p.18) shows Judge Mckinney's "copy service" to "C. Motley." The public web District Court Docket fails to show any "Appearance" by the above "copy served" Terry Duga *or anyone from the state attorney general's office* (with Petitioner noting a slightly different address from her 50+ "copy service" list). Further the Docket is missing numbered entries 14 & 15 filed between Dec. 11, 2000 and Jan. 16, 2001 which appear, from Att. Kelley's service of his pleadings upon her, to be where his 3 documents (motion, designation of evidence, & proof of service on 5 people) should be recorded. Judge McKinney's Jan. 18th entries at Docket #21 and "=" reference as "Mr." Attorney Kelley, a prominent area attorney claiming professional representation of 9 defendants below.

United States District Court
Southern District of Indiana

LYNN D. JOHNSTON
Petitioner,
v. **Cause No. IP 98-0004-C-M/S**
Criminal Case No. 53 C 05 9711 IF
079[sic]36, MONROE COUNTY COURT,
Respondent.

ENTRY

The petitioner's motion for extension of time for perfection of the notice of appeal is treated as a request for an an extension of time in which to file a notice of appeal. The ruling which appears to be the subject of the petitioner's desire to appeal is this court's *Entry Discussing Motion for Removal Re-Activation* issued on December 11, 2000.

The petitioner had thirty (30) calendar days after the ruling of December 11, 2000, in which to file a notice of appeal. She did not do so. In fact, her notice of appeal was not even signed until January 15, 2001.

Fed.R.App.P. 4(a)(5) provides a district court with limited authority to extend the time for filing a notice of appeal. It may be extended as follows, pursuant to Rule 4(a)(5):

> The district court, upon a showing of excusable neglect or good cause, may extend the time for filing a notice of appeal upon motion filed not later than 30 days after the expiration of the time prescribed by his Rule 4(a)....No such extension shall exceed 30 days past such prescribed time or 10 days from the date of entry of the order granting the motion, whichever occurs later.

The petitioner now seeks to invoke the grace period permitted under certain circumstances by Appellate Rule 4(a)(5). This Rule provides that an extension of the presumptive period in which to file a notice of appeal of up to thirty (30) days may be granted "upon a showing of excusable neglect or good cause."

"Good cause" only applies to the situation where the appellant asks for the extension prior to the expiration of the original thirty days. *Prizevolts v. Indiana Bell Telephone Co.*, 76F.3d 132, 133 (7th Cir. 1996). That situation is not presented by the petitioner's motion filed on February 7, 2001. Consequently, the petitioner in this instance must demonstrate that her failure to file a timely notice of appeal was caused by "excusable neglect." *id*.

"Excusable neglect" as the term is used in Appellate Rule 4(a)(5) encompasses missed deadlines which are the result of things such as misrepresentations by judicial officers, lost mail, and plausible misinterpretations of ambiguous rules." *Id*. at 134 (citations omitted). The Court of Appeals said in *Prizevoits* that the standard "'can never be met by a showing of inability or refusal to read and comprehend the plain language of the federal rules."' *Id*. at 133 (quoting *In re Cosmopolitan Aviation Corp.*,, 763 F.2d 507, 515 (2d Cir. 1985). The petitioner here has failed to either read and/or comprehend the plain terms of *Federal Rule of Appellate Procedure* 4(a)(1) giving her 30 days in which to file a notice of appeal. She has not shown that excusable neglect explains her untimely notice of appeal.

Accordingly, the petitioner's motion filed on February 7, 2001, is **denied.**

IT IS SO ORDERED

Date: 2/20/01

/s/ LARRY J. McKINNEY. Chief Judge
United States District Court

Copies to:

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United States District Court
Southern District of Indiana

LYNN D. JOHNSTON
Petitioner,

v. **Cause No. IP 98-0004-C-M/S**

Criminal Case No. 53 C 05 9711 IF
079[sic]36, MONROE COUNTY COURT,
Respondent.

ENTRY

The court, having considered the above action and the matters which are pending, makes the following rulings:

1. The motion of defendants in the state proceedings resisting the activation of the attempted removal of this action from the Monroe Circuit Court is unnecessary because the court has already determined that such action would be entirely improper. These defendants' request for an award of expenses and fees is denied.

2. The evidence relied on by the defendants in resisting the reactivation of the plaintiff's attempted removal consists of documents which are part of the court's file or, in one instance, simply a reprint of a statue. These materials are not needed at this point in the case, and are therefore stricken. These materials shall be returned to Mr. Kelley with his copy of this Entry.

IT IS SO ORDERED.
Date: Jan. 18, 2001

/s/ LARRY J. McKINNEY. Chief Judge
United States District Court

Copies to:
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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF INDIANA

LYNN D. JOHNSTON)
Petitioner,) CAUSE NO.
v.) IP 98-0004-C-M/S
Criminal Case No. 53 C05 9711 IF)
079[sic]36, MONROE COUNTY COURT,
Respondent.)

ENTRY DISCUSSING MOTION FOR REMOVAL RE-ACTIVATION

On December 4, 2000, the petitioner filed her "motion for removal re-activation & expansion with relief from the limitations of 26 U.S.C. §1446(c)(2)." The reference to Title "26" in the petitioner's motion is a typographical error. The intended reference is to Title 28 of the United States Code.

The purported removal of No. 53 C05 9711 IF 07836 from the Monroe Circuit Court was found through the order of January, 1998, to be a "nullity" and the action was remanded to that court.

The present motion, though tediously documented with the petitioner's concerns and views, is an untimely, insubstantial, and banal effort by the petitioner to transform the nature of the underlying action and then remove her own claims to federal court. Though now posturing as plaintiff in a civil rights action, the petitioner cannot remove an action she commences (or through obfuscation attempts to transform into one which in substance she has commenced) from state court to federal court. See *Shamrock Oil & Gas Corp. v. Sheets*, 313 U.S. 100, 104-09 (1941) (holding that Congress intended to eliminate the right of plaintiffs to remove cases and that the removal statutes are to be strictly construed); *American Intern. Underwriters (Philippines), Inc. v. Continental Ins. Co.*, 843 F.2d 1253, 1260 (9th Cir. 1988) ("the right to remove a state court case to federal court is clearly limited to defendants.").

Based on the foregoing, therefor, the petitioner's motion for removal reactivation filed on December 4, 2000, is denied. However, to address at least one of her concern, a certified copy of the Order of January 6, 1998, and a certified copy of the Entry shall be sent to the clerk of the Monroe County Court.

IT IS SO ORDERED.

Date: Dec 11 2000

/s/ [illegible]
LARRY J. McKINNEY, Judge
United States District Court

Copies:

Lynn D. Johnston
816 Auto Mall Road #243
Bloomington, IN 47401

Monroe County Court
Courthouse
301 North College Avenue
Bloomington, IN 47404

NOTE TO CLERK: PROCESSING THIS DOCUMENT REQUIRES ACTIONS OTHER THAN DOCKETING AND DISTRIBUTION.

United States District Court
Southern District of Indiana
Indianapolis Division

LYNN D. JOHNSTON
Petitioner,

v.

Cause No. IP 98-0004-C-M/S
Criminal Case No. 53 C 05 9711 IF

079[sic]36, MONROE COUNTY COURT,
Respondent.

ENTRY DISCUSSING REMOVAL OF ACTION AND DIRECTING REMAND

Petitioner Lynn D. Johnston ("Johnston") was issued a traffic ticket in Monroe County, Indiana. Believing that this court presents an available and superior forum in which to resolve the issues raised through the ticket, Johnston has filed a notice of removal.

As explained in this Entry, Johnston's notice of removal is flawed and of no effect. The action must be remanded.

I Background

The ticket issued to Johnston on November 24, 1997 (the "ticket"), is formally entitled "complaint and summons," and alleges that Johnston operated a motor vehicle in Monroe County, Indiana, without a registration plate, and in doing so violated an Indiana law, Ind. Code §9-18-2-29. The ticket directed Johnston to appear in the Monroe Circuit Court on December 4, 1997, at 1:00p.m. The "case" to which the ticket is related in No. 53 C 05 9711 IF 079[sic]36.

According to Johnston's notice of removal, she appeared as directed on December 4, 1997, and attempted to ascertain the identity of the man who was supposed to conduct the hearings. Johnston filed a written appearance and requested a trial by jury, but "stood mute" in relation to the entry of a plea. A few days later, she was notified by the Monroe County Court that she had failed to appear and that a default judgment had been entered. Now, asserting that she is unable to effectively assert her federally secured rights in connection with No. 53 C 05 9711 IF 079[sic]36 and that the resolution of that case was a "fraudulent default entry order," Johnston has removed the action from the Monroe Circuit (or the County) Court to this court.

II. Discussion

Federal courts are of limited jurisdiction, *Bender v. Williamsport Area School Dist.*, 475 U.S. 534, 541 (1986); *Abercrombie v. Office of Comptroller of Currency*, 833 F.2d 672, 674 (7th Cir. 1987). A district court possesses only the jurisdiction conferred to it by Congress. *See South Carolina v. Katzenbach*, 383 U.S. 301, 86 S. Ct. 803 (1966). Subject matter jurisdiction cannot be created, destroyed, or waived by the parties *See Brady Dev. Co. v. Resolution Trust Corp.*, 14 F.3d 998, 1006 (4th Cir. 1994). Thus, a district court must determine whether it possesses subject matter jurisdiction before it proceeds to the merits of the case. *See Packard v. Provident Nat'l Bank*, 994 F.2d 1039, 1049, (3rd Cir.), *cert denied sub nom., Upp v. Mellon Bank*, N.A., 510 U.S. 964 (1993), and "judges must consider jurisdiction as the first order of business." *Sherman v. Community Consol. Sch. Dist. 21 of Whelling Twp.*, 980 F.2d 437, 440 (7th Cir. 1992), *cert. denied*, 114 S. Ct. 2109 (1994).

Removal jurisdiction is completely statutory, and jurisdictional statutes cannot be construed any broader than their language will bear. *Cook v. Weber*, 698 F.2d 907, 909 (7th Cir. 1983). Jurisdiction in this action is asserted to exist by virtue of 28 U.S.C. §1443(1). Section 1443(1) provides for the removal of a civil action commenced in state court "[a]against any person who is denied or cannot enforce in the courts of such State a right under any law providing for the equal civil rights of citizens of the United States...." 28 U.S.C. §1443(1).

The supreme Court established a two-part test for section 1443(1) removal petitions in *Johnson v. Mississippi*, 421 U.S. 213 (1975): "First, it must appear that the right allegedly denied the removal petitioner arises under a federal law 'providing for specific civil rights stated in terms of racial equality.'" Id., 421 U.S. at 219 (quoting *Georgia v. Rachel*, 384 U.S. 7880, 792 (1966)). A state court defendant's claim that "prosecution and conviction will violate rights under constitutional or statutory provisions of general applicability or under statutes not protecting against racial discrimination" is insufficient for removal. Johnson, 421 U.S. at 219. Second, it must appear "that the removal petitioner is 'denied or cannot enforce' the specified federal rights 'in the courts of [the State.'" Id. (quoting 28 U..S.C. § 1443(1) (1988)).[1]

In this case, there is no indication that the state court's handling of the traffic ticket issued to Johnston has been

associated with laws relating to racial equality. Additionally, as in *Peole v. Lopez*, 919 F.2d 131 (10th Cir. 1990), Johnston seeks removal of a matter from a state court based solely on the assertion that the state court has given her inadequate procedural protections and has made an erroneous ruling. This will not satisfy the first portion of the *Johnson* test. 421 U.S. at 219. In addition, Johnston does not allege that the state courts will continue to be inhospitable to her federal constitutional claims, despite the fact that she has labored without success up to this point. State courts normally are presumed capable of protecting federal constitutional and statutory rights. Therefore, removal is allowed only where a formal expression of state law or an equivalent basis clearly predicts that the federal rights will not be vindicated in the state courts. *Id.*, 421 U.S. at 219-20.

The following passage from *City of Greenwood*, 384 U.S. at 827-28, 86 S. Ct. at 1812, entirely captures the spirit in which Johnston's removal action must be assessed:

> It is not enough to support removal under § 1443(1) to allege or show that the defendant's federal equal civil rights have been illegally and corruptly denied by state administrative officials in advance of trial, that the charges against the defendant are false, or that the defendant is unable to obtain a fair trial in a particular state court. The motives of the officers bringing the charges may be corrupt, but that does not show that the state trial court will find the defendant guilty if he is innocent, or that in any other manner the defendant will be "denied or cannot enforce in the courts" of the State any right under a federal law providing for equal civil rights. The civil rights removal statue does not require and does not permit the judges of the federal courts to put their brethren of the state judiciary on trial. Under § 1443(1), the vindication of the defendant's federal rights is left to the state courts except in the rare situations where it can be clearly predicted by reason of the operation of a pervasive and explicit state or federal law that those rights will inevitably be denied by the very act of bringing the defendant to trial in the state court.

The assessment which is compelled from the foregoing is self-evident: Johnston's notice of removal does not satisfy either of the elements necessary to invoke the court's removal jurisdiction pursuant to 28 U.S.C. § 1443(1).

III. Conclusion

There is, in this case, not even the pretense of a basis for removal under § 1443(1). Under 28 U.S.C. §1446(4), "[t]he United States district court in which such notice is filed shall examine the notice promptly. If it clearly appears on the face of the notice and any exhibits annexed thereto that removal should not be permitted, the court shall make an order for summary remand." See *Continental Cablevision of St. Paul, Inc. v. United States Postal Service*, 945 F.2d 1434, 1441 n.3 (8th Cir. 1991).

An order of remand shall issue consistent with this Entry.

IT IS SO ORDERED.

/s/ LARRY J. McKINNEY. Judge
United States District Court

Date: 1/6/98

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1. Section 1443(2) is unavailable to Johnson because it applies only to federal officers and person assisting federal officers in the performance of their official duties. *City of Greenwood, Mississippi v. Peacock*, 384 U.S. 808, 815 (1966).

ORDER OF REMAND

The court, having this day made its Entry, directing the remand of the criminal action known as No. 53 C 05 9711 IF 079[sic]36,

IT IS NOW ADJUDGED AND DECREED that the purported removal of No. No.[sic] 53 C 05 9711 IF 079[sic]36, in the Monroe Circuit Court is a nullity and this matter is now remanded to that court. The sending of a copy of this Order and the accompanying Entry shall constitute the remand which is ordered. If petitioner Lynn D. Johnson[sic] or a state court clerk has actually caused the record from the Monroe Circuit Court to be transmitted to this court, it shall be returned to that court in an appropriate fashion.

Date: 1/6/98

/s/ LARRY J. McKINNEY. Judge
United States District Court

Copies to:

Lynn D. Johnston
816 Auto Mall Road #243
Bloomington 47401

Monroe County Court
Courthouse
301 N. College Avenue
Bloomington 47401

GENERAL DOCKET FOR
Seventh Circuit Court of Appeals

Court of Appeals Docket # : 01-1182 Filed 1/23/01
Nsuit: 3440 Oth Civil Rights-Fed. Question
Johnston, Lynn D. v. Monroe Count y Court
Appeal from: United States District Court

Lower court information:
Districts: 0756-1 : 98 C 4
Ordering Judge: Larry J. McKinney, Chief Judge
Court Reporter; Glen L. Cunningham, Court Reporter
Date Filed 1/2/98
Date order/judgment: 12/11/00
Date NOA filed: 1/16/01

Fee status: paid

Prior cases:
None
Current cases:
None

Proceedings include all events.

01-1182 Johnston, Lynn D. v. Monroe County Court

LYNN JOHNSTON,	
Plaintiff-Appellant	Lynn Johnston 812/335-2070 #243 816 Auto Mall Road Bloomington, IN 47401
v.	[COR LD NTC pro]
MONROE COUNTY COURT,	David B. Schilling
Defendant-Appellee	[COR LD NTC ret] 220 Courthouse Courthouse Square Bloomington, IN 47404

Proceedings include all events.

01-1182 Johnston, Lynn D. v. Monroe County Court

LYNN JOHNSTON,
Plaintiff-Appellant
v.
MONROE COUNTY COURT,
Defendant-Appellee

Proceedings include all events.

01-1182 Johnston, Lynn D. v. Monroe County Court

1/23/01 Private civil case docketed. [01-1182] [1365390-1] Transcript information sheet due 2/201. Appellant's brief due 3/5/01 for Lynn Johnston. (squi)

1/23/01 File Appellant Lynn Johnston docketing statement. [01-1182] [1365395-1] (squi)

1/24/01 ORDER: Appellant Lynn Johnston shall file a brief memorandum stating why this appeal should not be dismissed for lack of jurisdiction. [1365390-1] DW [01-11182] [1366198-1] Briefing is SUSPENDED pending further court order. (See order for further details) Jurisdictional memorandum due 2/6/01 for Lynn Johnston. (mixa)

2/6/01 Appellant Lynn Johnston jurisdictional memorandum. [01-1182] [1370007-1] (amy)

2/7/01 ORDER: Counsel for Appellant Lynn Johnston are ordered to file a status report regarding THE DISPOSITION OF HER MOTION TO EXTEND THE TIME TO APPEAL FILE WITH THE DISTRICT COURT. [1365390-1] DW [01-1182] [1370196-1] Briefing shall continue to be SUSPENDED pending further court order. (See order for further details) Status report due 2/21/01 for Lynn Johnston. (hard)

2/20 /01	Filed status report by Appellant Lynn Johnston. [01-1182] [1373738-1] (amy)
2/22/01	ORDER re: Status report of 2/20/01. Counsel for Appellant Lynn Johnston are ordered to file a further status report. [1365390-1] DW [01-1182] Status report due on or before 3/7/01 for Lynn Johnston. Briefing shall continue to be SUSPENDED pending further court order. (mixa)
2/26/01	Filed status report by Appellant Lynn Johnston. [01-1182] [1375189-1] (amy)
3/6/01	Filed district court order dated March 1, 2001: Because [of] the plaintiff's status, report has been served on counsel for opposing parties, and because the status report does not seek relief in or from this court, no further action will be taken on it. Forwarded to C. Motley [01-1182] [1365290-1] (scze)
3/15/01	ORDER re: 1. Jurisdictional memorandum. 2) Status report notice. This appeal is DISMISSED for lack of jurisdiction. The court further concludesthat the district court didd[sic] not abuse its discretion in denying appellant's motion to extend the time to appeal. Circuit Judge William J. Bauer, Circuit Judge Daniel A. Manion, Circuit Judge Ilana D. Rovner. [01-1182] [1365390-1] (hard)
4/6/01	MANDATE ISSUED: No record to be returned. [01-1182] [1365390-1] (cove)

Docket as of April 7, 2001 0:03 am

Proceedings include all events.

01-1182 Johnston, Lynn D. v. Monroe County Court

[Emphasis added in bold; "DW" / Judge Diane Wood]

HISTORY LISTING FOR CASE NO. 53A01-9909-CR-00325
2/4/00 JOHNSTON, LYNN D. -V- STATE OF INDIANA
Lower Cause Number: 53CO59711IF7836

JOHNSTON, LYNN D. 816 AUTO MALL RD. #243 BLOOMINGTON, IN 47401 812-339-7862	JOHNSTON, LYNN D. A
DOUGLAS BRIDGES 301 N. COLLEGE BLOOMINGTON, IN 47404 812-349-2634	STATE OF INDIANA E
STEVEN LANCASTER COURT OF APPEALS ADMIN. 1270 S. MERCHANT'S PLAZA INDIANAPOLIS, IN 46204-2784 317-232-4196	STATE OF INDIANA E
JEFFREY MODISETT ATTORNEY GENERAL 219 STATE HOUSE INDIANAPOLIS, IN 46204 317-323-6201	STATE OF INDIANA E
ANDREW HEDGES IGCS, 5TH FLOOR 402 WEST WASHINGTON ST. INDIANAPOLIS, IN 46204-2794 317-232-2254	STATE OF INDIANA E
JAMES WHITEHEAD ATTORNEY GENERAL, 5TH FL INDIANAPOLIS, IN 46204-2794 317-232-6249	STATE OF INDIANA E

File Date

==========

9/21/99 NOTICE OF APPEAL BY LYNN JOHNSTON, AH

PRO SE FOR APPELLANT (2) PROOF OF SERVICE (2) MAIL/NSS AH

10/20/99 ****NOTE: CLDIS IN 20 DAYS RS

9/21/99 MOTION TO BELATEDLY PROCEED (6) PROOF OF SERVICE (0) AH

9/21/99 ****TENDERED: ONE (1) VOLUME RECORD NEEDS CLERK'S CERTIFICATE & JUDGES CERTIFICATE. RETR TO MS. JOHNSTON FOE CORRECTIONS. AH

99/2199 ****TENDERED: ONE (1) VOLUME RECORD PLUS T/C FILED. WAITING ON

BELATED APPEAL'S RULING. ON AH'S DESK. AH

10/21/99 ****TENDERED: APPELLANT'S BRIEFS (9) NO PROOF OF SERVICE. WAITING ON RULING. ON AH'S DESK. ALSO, APPENDIX (9) AH

10/21/99 PROOF /CERTIFICATE OF SERVICE (2) FOR MOTION TO FILE BELATED. RECORD. APPELLANT'S BRIEFS. AH

10/19/99 NOTICE OF APPEARANCE BY ANDREW L. HEDGES, DAG FOR THE STATE (2) CERTIFICATE OF SERVICE (2) MAIL AH

10/26/99 PROOF/CERTIFICATE OF SERVICE (2) MAIL FOR MOTION TO FILE BELATED. AH
CERTIFICATE CORRECTION NOTICE (2) AH

10/29/99 ****NOTE: ONE COPY OF APPELLANT'S BRIEF AND APPENDIX SENT UP TO MS. BLUE AH

11/05/99 NOTICE OF APPEARANCE OR SUBSTITUTION OF APPEARANCE BY J.T. WHITEHEAD, DAG (2) CERTIFICATE OF SERVICE (2) MAIL AH

11/16/99 *****DOCKET SHEET TRANSMITTED FOR DISMISSAL***** RS

11/23/99 ISSUED THE ENCLOSED ORDER:

11/23/99 ORDER: IT IS THEREFORE ORDERED THAT THE APPELLANT'S PRO SE MOTION TO BELATEDLY PROCEED IS DENIED AND THIS ATTEMPTED APPEAL IS DISMISSED. JOHN T. SHARPNACK, CHIEF JUDGE KM

12/10/99 APPELLANT'S PETITION FOR TRANSFER (6) CERTIFICATE OF SERVICE (2) MAIL GP

12/10/99 APPELLANT'S CERTIFICATE OF SERVICE (2) MAIL **PETITION TO TRANSFER* MS

1/05/00 **********TRANSMITTED ON TRANSFER 01/05/00********** RS

1/14/00 ****NOTE: SENT TENDERED ARTICLES UP TO SUPREME COURT FOR REVIEW AH

1/19/00 APPELLANT'S PETITION TO TRANSFER IS HEREBY DENIED. RANDALL T. SHEPARD, CHIEF JUSTICE
ALL JUSTICES CONCUR. KM

****END OF REPORT****

[The state court docket entry immediately prior to the ORDER of US District Court Judge McKinney discussing REMOVAL Re-Activation and REMAND, dated December 11, 2000, and all other entries through the date of state court clerk certification, February 27, 2001, are included below.]

Feb 27 2001 09:07:14 Page 12

CHRONOLOGICAL CASE SUMMARY
CIVIL, MONROE CIRCUIT COURT DIV IV

FOR CAUSE NO: 53C040007CP01040
L JOHNSTON VS F O'BANNON ETAL
JONATHAN ROBERTSON

ACTION: COMPLAINT DATE FILED: 07/18/2000
ORIG FILE DT: 07/18/2000

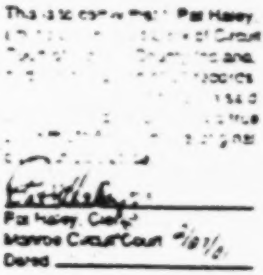
12/08/2000 Notice : A RJO N

Defendant files copy of Defendant-Petitioner's Motion for Removal Re-Activation & Expansion with Relief from the Limitations of 26 USC 1446(c)(2) filed with United States District Court Southern Division on December 4, 2000. Court forwards copy of same to Special Judge Jonathan J. Robertson. 11m

02/08/2001 NOTICE: A RJO: N

Defendant-petitioner files proof of service. Copy sent to Special Judge Robertson. ymd

02/20/2001 Notice: A RJO: N
Status Report and Proof of Service filed.
aly



[The state court docket entry immediately prior to the ORDER of US District Court Judge McKinney discussing REMOVAL Re-Activation and REMAND, dated December 11, 2000, and all other entries through the date of state court clerk certification, February 27, 2001, are included below.]

Feb 27 2001 09:05:26 Page 4

CHRONOLOGICAL CASE SUMMARY
INFRACTION, MONROE CIRCUIT COURT DIV V

FOR CAUSE NO: 53C05 9711 07836
ST V LYNN D JOHNSTON
THE HONORABLE DOUGLAS R BRIDGES

ACTION: DATE FILED: 11/26/1997
ORIG FILE DT:

01/19/2000 Notice: N DISPOSED: REDBD RJO: N
Court receives notification from Supreme Court that Defendant's Petition for Transfer is DENIED and therefore returns the file to the clerk's office for storage.
REDBD/mbs

This is to certify that I, Pat Haley, am the duly elected Clerk of Circuit Court of Monroe County Indiana, and the custodian of all records required by law to be filed in said office and this document is a true and accurate copy of the original on file in said office.

Pat Haley, Clerk
Monroe Circuit Court
Dated 2/27/01

UNITED STATES DISTRICT COURT for the
SOUTHERN DISTRICT OF INDIANA
INDIANAPOLIS DIVISION

Removal Petition *In Re*
Criminal Case No. 53CO5 9711 IF 07836, Monroe County Court

State of Indiana, County of Monroe, Officer Andy Stephenson, Indiana University Police Department, Plaintiff-Respondent,	**Case No. I P 98 - 0004 - C - m/s**
v.	
Lynn D. Johnston, Defendant-Petitioner.	

FILED
U.S. DISTRICT COURT
INDIANAPOLIS DIVISION

01 JAN 16 AM 10: 29

SOUTHERN DISTRICT
OF INDIANA
LAURA A. BRIGGS
CLERK

Notice of Appeal tc

United States Court of Appeals for the Seventh Circuit

Lynn D. Johnston, the Defendant appeals to the United States Court of Appeals for the Seventh Circuit from the Order of the district court for the district of Indianapolis Indiana, entered in this case and mailed to Defendant on December 11, 2000, said order, titled "Entry Discussing Motion for Removal Re-Activation," arises in denial against Defendant-Petitioner seeking relief from the formidable obstructions and blocking of her states appellate and other related civil rights vindication attempts from January 1998 forward through January 12, 2001 (undertaken by Defendant-Petitioner upon Judge McKinney's January 6, 1998 Entry purporting to remand the cause of action with suggestion of a standard state court appeal), with said denied motion and this appeal in part jurisdictionally founded upon the fact that no federally certified January 6, 1998 remand order, nor December 11, 2000 entry order exist in either Defendant-Petitioner's files, nor in the state court record according to service and documents duly recorded to date.

The parties to the order appealed from and the names and addresses of their respective attorneys are as follows: **Plaintiff-Respondent** - Andy Stephenson, IU Dept. of Police, 801 N. Jordan, Residence Hall Adm. Bld., Bloomington, IN 47405 represented by **Jeff Kehr**, Office of County Prosecutor, Justice Bld., 301 N. College, Bloomington, IN 47401. **Defendant-Petitioner - Lynn D. Johnston**, pro se, 816 Auto Mall Road, #243, Bloomington, IN 47401. Due to the unusual nature of Defendant-Petitioner's ongoing cause of action and the apparent failure of the district court to serve its December 11, 2000 entry upon the comprehensive removal expansion list of parties and attorneys served the denied motion (by certified return receipt mail as recorded in the motion's proof of service), this appeal notice (and following record designation) will also be served upon the same list of persons.

Monday, January 15, 2001 /s/_____
Lynn D. Johnston

[caption omitted]

PROOF OF SERVICE

Lynn Johnston, Defendant-Petitioner in the above-entitled cause of action, certifies under penalty of perjury that, she served copies of: **Notice of Appeal to United States Court of Appeals for the Seventh Circuit, & Docketing Statement** upon the same list long list of adverse entities and lawyers claiming to represent defendants as served her December 4, 2000 documents by enclosing said documents in properly addressed and sealed envelopes with sufficient first class postage affixed thereon, and depositing said envelopes into the US Indianapolis, Indiana Airport Post Office on January 15, 2001.

/s/_____Miss Lynn Johnston, Defendant-Petitioner
816 Auto Mall Road, #243, Bloomington, IN47401 (812-339-7862)

CERTIFICATION

Certified as a true and corrected representation and signed this 15th day of January, 2001 under penalty of perjury.

/s/_____Miss Lynn Johnston, Defendant-Petitioner

UNITED STATES DISTRICT COURT for the
SOUTHERN DISTRICT OF INDIANA
INDIANAPOLIS DIVISION

Removal Petition *In Re* **Criminal Case No. 53C05 9711 IF 07836, Monroe County Court**

State of Indiana, County of	)	
Monroe, Officer Andy	)	
Stephenson, Indiana University	)	**Case No. I P 98 - 0004 - C - m/s**
Police Department,	)	
Plaintiff-Respondent,	)	
v.	)	
Lynn D. Johnston,	)	
Defendant-Petitioner.	)	

Docketing Statement

Pursuant to Circuit Rules 3, 10, 11, and 45, Defendant-Petitioner Johnston states:

Firstly, there have been prior appellate proceedings closely related to the case, and they are identified as: Infraction state appeal, # 53A01-9909-CR-325, In re Lynn D. Johnston v. State of Indiana, with Transfer to the Ind. Sup. Ct denied, and the US Sup. Ct. petition unsuccessful (#99-1696); and Federal civil rights, # IP98 0621-C- H/G, Lynn Johnston v. The Bureau of Motor Vehicles, et al., with a related 7th Cir. petition for a writ of mandamus upon the Hon. David F. Hamilton US district court judge (#98-3682) and the US Sup. Ct. petition (#99-1294) unsuccessful.

Secondly, there has been prior litigation in the district court which although not appealed arises out of the same criminal conviction: the Petition for habeas corpus relief and motion to hold state officials in contempt of Jan. 6, 1998 federal remand order, # IP98-C-1012-T/G Lynn Diane Johnston v. Randy Williamson (Sheriff).

Thirdly, in essence all of Defendant-Petitioner's causes of action are collateral attacks in attempted vindication and redress of an unconstitutional criminal conviction.

Fourthly, while Defendant-Petitioner has been released from the related 40 day term of imprisonment, in effect **Plaintiff-**

Respondent State of Indiana/Bureau of Motor Vehicles (BMV) Commission imposes an ongoing custody like containment and migration control over Defendant-Petitioner by continued defilement and withholding of her otherwise spotless motor vehicle operator's license and license plate to which she is entitled, with the BMV representation being made that she will never get her license back and that she won't be able to get an operators license even if she goes to another state due to the Indiana record being maintained.

Fifthly, the filing dates establishing the timeliness of the appeal are: issuance and mailing of the district court order on Dec. 11, 2000, therefore pursuant to Federal Rules of Civil Procedure 6(a) not counting Dec. 11th (the day of issuance), and pursuant to Rule 6(e) not counting Dec. 12th, 13th, and 14th (the 3 additional days allowed when service is by mail), the 30 day period during which a timely appeal must be received in the clerk's office began on Friday, Dec. 15th through Sunday, Jan. 14th but for the provision in Rule 6(a) extending to the end of the next court business day, any appeal notice otherwise falling due on Sunday, and further, as a result of the provision of Rule 77(c) in light of court being closed on Monday, Jan. 15th for the Martin Luther King holiday, extending the final due date through Tuesday, Jan. 16th, 2001. The airport post office (open on holidays) on Jan. 15th received Defendant-Petitioner's documents for timely Express Mail delivery to the US district court clerk on Tuesday Jan. 16th, 2001.

Sixthly, the basis of district court's jurisdiction is: statutory (28 USC 1443, 1446, & 1447, 42 USC 1981(a)(c), 1983, 1985(2) & 1986, 42 USC 405(C)(i)(iv)(ii) & sec. 7 of P.L. 93-579(a)(1)(2)(A)(b) [also found as 5 USC (a) note] 1 Stat 50 [incorporation of the act of August 7, 1789, the Northwest Ordinance, into the statutes at large] & the acts approved May 7, 1800 [to divide the territory of the Untied States north west of the Ohio into two separate governments [establishing the Indiana Territory], and April 19, 1816 [to enable the people of the Indiana territory to form a constitution and state government, and for admission of such state into the Union on equal footing with the original states] and particularly its Sec. IV thereof [related to the requirement of a republican form of government and non-repugnancy with ongoing rights, privileges and principles carried forward from the

Northwest Ordinance]); **and constitutional** (1st Am., 5th, 6th Am., 7 Am., 8th Am., 14th Am., Art. 1, sec. 9, cl. 2 & sec. 8, cl. 18, Art. 3, sec. 2, cl. 1 & cl. 3, Art. 4, sec. 4., and Art. 6, cl. 2.

Seventhly, the nature of the case is peculiar due to the course of the proceedings and the state and federal dispositions. Essentially, Defendant-Petitioner noticed removal Jan. 2, 1998 upon discovery of state court proceedings in violation of a republican form of government, whereupon a remand issued which was not certified to the state court, and thus removal jurisdiction quietly remained while the federally suggested state court appeal of the Dec. 18, 1997 infraction judgment was pursued. All state and federal conviction vindication efforts were blocked, and on Dec. 4, 2000, under the Jan. 2, 1998 removal, Defendant-Petitioner attempted to proceed with conviction-vindication-related matters by essentially demonstrating the continued massive due process violations and disclosing the necessary "person of color" facts to overcome the initial defects of the Jan. 2, 1988 removal in light of the holdings in Johnson v. Mississippi, 421 US 213 (1975) and City of Greenwood v. Peacock et al, 384 US 808 (1966) at 827-28, seeking to "re-activate" the removal action for demonstrated cause upon the shenanigans and stifling of her "State Court Section 1983, ETC. Complaint Against Conspiracy violating Civil Right Under Color of Law."

Eightly, beginning on Jan. 2, 1998 through Dec. 4, 2000 Defendant-Petitioner brought the relevant facts indicating the Monroe County and state of Indiana overthrown of the republican form of government via removal allegations (of being subjected to money solicitations and attempted arraignment by a deputy prosecutor, etc. followed by obstructive due process violations being apparently related to the protection of the money diversion enterprise and the blocking of any threatened public exposure by Defendant-Petitioner's appeal or otherwise. Defendant-Petitioner was unlawfully discriminated against and repeatedly denied services at the BMV office which circumstance gave rise to unlawful arrest, vehicle seizure and being summoned into "the education governor's" lucrative, multi-million dollar "non-civil-non-criminal" infraction money diversion racket in which judges become unavailable while prosecutors divert defendants in order to undertake arraignments and solicit settlement monies for deposit into the General Fund in violation of both state and

federal "republican form of government" guarantees, in further violation and criminal conversion of constitutional provisions ("inviolately" requiring all penal sums to go to the Common School Fund - Indiana Constitution, Art. 7, sec. 18, Art. 8, sec. 2, 3, & 7), and relative to which Defendant-Petitioner has suffered two fallacious judgments, defamations, 40 days solitary imprisonment and unlawful confinement or containment, all in the absence of arraignment and other requirements of due process, in addition to evidence-record tampering, obstruction and blocking of vindication efforts and other civil rights violations and ongoing harm, all in violation of due process, etc. Thus jurisdiction is based on the existence of federal questions involving civil rights and the entitlement to a republican form of government.

Ninthly, the basis of appellate jurisdiction: the appeal is pursuant to the provisions of Federal Rules of Procedure Appellate Rule 4(a) upon the "entry" order of Dec. 11, 2000 which effectively disposed of all parties' claims. Thus 28 USC 1291 provides for circuit court jurisdiction in such circumstances.

Tenthly, the issues presented for review center upon denials of the guaranteed republican form of government, due process, civil rights/first amendment petitioning issues, jury and immunity issues.

Eleventhly, the essence of the argument is that Defendant-Petitioner's opponents under color of law with prejudice, have undertaken to overthrow and defeat constitutional government principles and law, thus the conviction recorded against Defendant-Petitioner is null and void, and the wrongs and harm inflicted are subject to meaningful redress.

Lastly, the removal case # IP98-C-0004-M/S documents designated are: #1 of 1-2-98 /Notice of removal; #6 & 7 of 1-6-98/Entry discussing removal of action and directing remand, and Order; #8 of 1-9-98/Return of service; #9, 10, 11 and 12 of 12-4-00/ Motion, Brief, Index to exhibits and Proof of service; and # 13 of 12-11-00 Entry order denying motion.

January 15, 2001 /s/ _____

Lynn D. Johnston

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF INDIANA
INDIANAPOLIS DIVISION

Removal Petition *In Re* **Criminal Case No. 53CO5 9711 IF 07836, Monroe County Court**

State of Indiana, County of Monroe Officer Andy Stephenson Indiana University Police Department,	)	**Case No. IP98-0004-C-m/s**
Plaintiff-Respondent,	)	
v.	)	
Lynn D. Johnston,	)	
Defendant-Petitioner.	)	

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DISTRICT
OF INDIANA

Defendant-Petitioner's

Motion for Removal Re-Activation & Expansion with Relief from the Limitations of 26 USC 1446(c)(2)

Now comes Defendant-Petitioner Miss Johnston to motion for relief from the limitations of **28 USC 1446(c)(2)** and re-activation and expansion of her above entitled January 2, 1998 removal cause of action, designated flawed and void by the Honorable Larry J. McKinney (due to her failure to disclose the required facts).

No federally certified remand order exists in the state court record.

The January 6, 1998 "Remand Order" and "Entry Discussing Removal of Action and Directing Remand" significantly note or rely upon the holdings in **Johnson v. Mississippi, 421 US 213 (1975)** and **City of Greenwood v Peacock et al, 384 US 808 (1966) at 827-28.**

Defendant-Petitioner Miss Johnston, for good cause shown by her separate supporting brief with affidavit, and indexed exhibits, urges that favorable consideration of this motion result in an order to show cause, at a forthcoming evidentiary hearing to be set by the Court, directed to the original and expanded respondents. Sufficient copies of a proposed order are provided with this filing.

Respectfully submitted,

December 4, 2000 /s/ _____

Miss Lynn Johnston, Defendant-Petitioner

816 Auto Mall Road, #243, Bloomington, IN 47401 (812-339-7862)

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF INDIANA
INDIANAPOLIS DIVISION

Removal Petition *In Re* Criminal Case No. 53CO5 9711 IF 07836, Monroe County Court

State of Indiana, County of Monroe Officer Andy Stephenson Indiana University Police Department, Plaintiff-Respondent,	)	Case No. IP98-0004-C-m/s
v.	)	
Lynn D. Johnston, Defendant-Petitioner.	)	

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Brief in Support
of Motion for Removal Re-Activation & Expansion with Relief from the Limitations of 26 USC 1446(c)(2) with Affidavit in Support of Facts & Indexed Exhibits

Just before the Christmas holidays, Defendant-Petitioner Miss Johnston, a person without any moving traffic violations whatsoever and then a gourmet caterer with a busy schedule, received by US Mail Service, Monroe County Clerk Pat Haley's postcard notification threatening her with loss of her drivers license on Jan. 8, 1998 unless she yielded to demand for payment of money allegedly owed as a result of the entry of Default Judgment on Dec. 18, 1997 upon her alleged failure to appear as summoned Dec. 4, 1997 to defend against the state of Indiana's and Indiana University Corporation Cop Stephenson's Infraction Complaint lodged in the Monroe County courthouse under case # 53 CO5 9711 IF 07836, charging her with no registration plate on her car in violation of IC 9-18-2-29. Corporate Cop Stephenson's action constituted a felonious "bad stop" under IC 9-18-2-29, 9-13-2-1, 9-22-1-1, and 35-50-3-2. Monroe County Deputy Prosecutor Trulock's filed notations of Dec. 4, 1997, record his attempted arraignment and money solicitation of Defendant-Petitioner (when she appeared in the courthouse to discharge the summons) in conformity with the long standing practice (wherein no judge is present) in which local prosecutors discharge summoned appearances of alleged infractors for money. The maximum infraction fine imposable for violation of IC 9-18-2-29 is $500.00 but infraction fines have a

range from $25.00 to $10,000.00. Irrespective of a well documented appearance, the record shows that the Default Judgment was mailed subsequently, and not only prior to, but in the absence of, any record of the necessary notice, motion and related process for entry of a default judgment as required under **Ind. Gen. Court Rule 55.** Defendant-Petitioner refused to acquiesce to the expediency of rewarding the threaten[ed] loss of her drivers license with a money payment, and in light of having been unlawfully discriminated against in violation of state law **(IC 4-1-8-5)** in 5 attempts to "plate and title" her car at the Bureau of Motor Vehicle Commission (BMV), (giving rise to the circumstances which effectively set her up for repeated "no plate" infraction charges and the same collection racket), she promptly noticed removal to federal court pursuant to **28 USC 1443(1).** And as will be hereinafter be shown, all of her civil rights vindication effort[s] remain fully obstructed to date with the unlawful discrimination being continuous and of unmitigated and escalating harm.

Firstly below in the **"RE-ACTIVATION"** portion of this brief, points are made in demonstration of good cause for re-evaluation and re-activation of the original Jan. 2, 1998 removal action and for embracing relief from the limitations of grounds "deemed waive[d]" due to mistimed disclosure. Secondly, under the **"EXPANSION"** portion the grounds for removal are shown to be substantially enlarged as a consequence of the aligned conduct of Defendant-Petitioner's opponents beginning on, or about Jan. 9, 1998 when Defendant-Petitioner began pursuit of civil rights vindication by means of the state court appeal suggested in the Jan. 6, 1998 "Entry Discussing Removal of Action and Directing Remand," and continuing through November, 2000.

"RE-ACTIVATION"

(No federally certified remand)

No federally certified remand order exists in the state court record. While this could be due to a simple federal court oversight, Defendant-Petitioner Johnston submits that in light of the "irregularities" transpiring in the related civil rights vindication litigation and the powerful, economic interest put at risk thereby, it may be missing as a consequence of the electronic and hard copy record tampering which ensued in apparent

consequence of the removal and state court appeal notices. The plausibility of this theory will not be fully appreciated until the whole import of this brief has been weighed, but it should be born in mind that there is already a substantial record showing the civil rights opponents have undertaken significant self-serving, post-removal, obstructive conduct against Defendant-Petitioner in violation of both state and federal law. Moreover these same color of law defendants would have had both opportunity for access to court records, and a motive for setting up a potential technical defense based upon the claim that all subsequent state proceedings in which there were involved, should be viewed as "null and void and of no consequence for lack of jurisdiction." Regardless of the cause of its absence, 28 USC 1447(c) provides that a "certified copy of the order of remand shall be mailed by the clerk to the clerk of the State court" [and the] State court may thereupon proceed with such case." "Federal jurisdiction attaches as of the time that the original removal petition was filed in federal court; that jurisdiction attaches regardless of the merits of the petition for removal." See **First Nat. Bank in Little Rock v. Johnson and Johnson**, D.C.Ark.1978, 455F.Supp 361. "Removal of [a] case to federal court is automatic on [the] proper filing of [a] petition divested of any authority or discretion to rule or pass upon [the] merits of [the] case." See **People v. Goldwag 1964, 248 N.Y.2d 248, 42 Misc.2d 356**. The "Circuit court reacquire[s] subject matter jurisdiction over action, which had been removed to federal court and then remanded back to state court, when federal district court clerk mail[s] [the] certified remand order to [the] clerk of circuit court." See **Mathewson v. Aloha Airlines, Inc., Hawaii "i" 1996, 919 P.2d 969**. The "[d]istrict court retain[s] jurisdiction to reconsider, upon motion, its prior ruling that remanded to state court[,] action that had been removed to federal court by defendants, where no formal order of remand had yet been forwarded by federal court clerk to state court. See **Browning v. Navarro, 743 F2d 1069 (5th Cir.1984)**; also **State of La. v. Sprint Communications Co., M.D.La1995, 899 F.Supp. 282**. Thus Defendant-Petitioner submits that in consequence of an irregularity, this Honorable Court has jurisdiction allowing this motion in re-activation of the original removal with reconsideration of its inadequacy in light of the corrected removal embracing consolidated processing of the obstructed civil rights vindication petitions through and specifically including the July 18, 2000

"State Court Section 1983, Etc. Complaint Against Conspiracy Violating Civil Rights Under Color of law."

(Correction of unartfulness
within the limitations of 28 USC 1446(c)(2))

While the standard for initial removal pleadings such as filed on Jan. 2, 1998, is 28 USC 1446(c)(2) (which requires and limits the grounds for removal to those grounds stated of those existing, at the time of the removal notice with any grounds not so stated, deemed waived), the statute also acknowledges that the court "for good cause shown" may relieve a petitioner from this limitation. However, even without allowance of good cause additions "[d]eficiencies in [the] notice of removal can be corrected within a 30-day period, but once that period has elapsed, notice of removal may be amended only to set out more specially the grounds of removal that already have been stated, albeit imperfectly, in [the] original petition." See Bradwell v. Silk Greenhouse, Inc., M.D.Fla 1982, 828 F.Supp. 940. Thus it being more than 30 days, Defendant-Petitioner hereby corrects the unartfulness of said Jan. 2, 1998 removal by more specifically stating the following:

> Defendant-Petitioner, a person of mixed color with an equal right (in light of 42 USC 1981 & 1982) to secure a marketable title to a car in her own name, pay the excise tax and obtain a license plate and not be oppressed or intimidated in the enjoyment thereof, was initially set-up by the BMV upon prejudice for continuing prejudicial treatment in a pre-existing traffic infraction racket, and she knew it was under color of law oppressing and discriminating against her enjoyment of the equal right which other citizens of Indiana enjoyed related to real property, and that it all started with the BMV clerk who, contrary to state law IC 4-1-8-5, refused provision of excise tax/car-title processing services enjoyed by other state citizens, making a judgmental and prejudicial remark to and about Defendant-Petitioner, sounding in vio-lation of 42 USC 1981(a)(c), 1982 & 1983, 42 USC 405(C)(i) (iv)(v)(ii), & §7 of Public Law 93-579(a)(1)(2)(A)(b) [also found as 5 USC (a) note], US Const. Art. IV. §2, Cl. 1, & First Am. (1971). Defendant-Petitioner knew she had been target-ed by two university corporation

cops, under color of law oppressing and discriminating against her enjoyment of equal rights which other citizens of Indiana enjoyed, who had gone armed upon the roadways disguising their statutory disqualification and inadequacy of police power for stopping, for lack of a license plate, Defendant-Petitioner's lawful use of a public road and, trespassing upon and depriving her of her car without giving her a receipt or disclosing where her property was actually being deposited, defaming her (by "non-arrest" transport in the back of a marked squad car and threatening to take her to jail immediately, if she didn't submit to the routine as directed), by and under the power of, the mislead-ing use of regular-looking police uniforms and deadly gear, sounding in violation of **42 USC 1983 & 1985(2), & the Fifth Am. (1791).** Thus her use of the public roads for the purpose that night of engaging in a commercial transaction for procurement of consumables originating in interstate commerce was obstructed. **And Defendant-Petitioner knew that by being brought into the local courthouse to defend such a prosecution she wouldn't be able to enforce her BMV rights** (although she naively presumed equal access to court process for subpoenaing the BMV as a defense witness at her trial), and that when she was commenced against in the Monroe County Courthouse under color of law and corporate cop summons usage by a big man named Trulock (subsequently identified as a deputy prosecutor) who was found to be in command of the place while refusing to identify himself and treating her in an intimidating and abusive manner unlike others whom she observed to enjoy more respectful treatment, she was subjected to his solicitation of money in conjunction with his attempted arraignment of her while obstructing her (and others willing to to assist her) from getting a judge, com-manding her to "get out," sounding in violation of 42 USC 1881(a)(c), 1983, 1985(2), 1986, & US Const. Art. IV, §2, cl. 1, & §4, & the 14th Am. §1. The prejudicial BMV conduct had been applied against the equal rights of Defendant-Petitioner prior to her being "summons to the courthouse," and its conduct was the <u>exclusive</u> reason she was charged with the infraction as her use of the roadway was peaceful and proper and she enjoyed an

equal right to title, plate and use a car as do other state citizens.

Defendant-Petitioner make[s] out a case of misuse of a state powers, and suggests that the 14th Amendment understanding in **Wall v. King, 206 F.2d 878 (1953)** at p. 882-83 in relation to the license to operate a motor vehicle is correct:

> The "liberty" mentioned in that [14th] amend-ment means, not only the right of the citizen to be free from the mere physical restraint of his person, as by incarceration, but the term is deemed to embrace the right of the citizen to be free in the enjoyment of all his faculties; to be free to use them in all lawful ways; to live and work where he will; to earn his livelihood by any lawful calling; to pursue any livelihood or avocation; and for that purpose to enter into all contracts which may be proper, necessary, and essential to his carrying out to a successful conclusion the purposes above mentioned." [Quoting from **Allgeyer v. State Louisiana, 1897, 165 U.S. 578, 589, 17 S.Ct. 427, 431, 41 L.Ed. 832]**
>
> In fact it is under that enlarged connotation of the word "liberty" that the fundamental guaranties of freedom of speech, freedom of religion, and freedom of the press expressed in the **First Amendment** have been imported into the due process clause of the **Fourteenth Amendment** as a limitation upon the states. [Citing **Grosjean v. American Press Co., Inc., 1936 297 U.S. 244, 56 S. Ct. 444, 80 L.Ed. 660; DeJonge v. State of Oregon, 1937, 299 U.S. 353, 384, 57 S. Ct. 255, 81 L.Ed. 278; Hague v. CIO 1939, 307 U.S. 496, 519, 59 S.Ct. 954, 83 L.Ed. 1423; Schneider v. State of New Jersey, 1939, 308 U.. 147, 160, 60 S.Ct. 146, 84 L.Ed 155. See Also Smith v. State of Texas, 1914, 233 U.S. 630, 636, 34 S.Ct. 681, 58 L.Ed. 1129.]**
>
> Therefore it is unimportant whether, for one purpose or another, a license to operate a motor vehicle may properly be described as a mere personal privilege rather than a property right. We have no doubt that the freedom to make use of one's own property, here a motor vehicle, as a means of getting about from place to place,

whether in pursuit of business or pleasure, is a "liberty" which under the Fourteenth Amend-ment cannot be denied or curtailed by a state without due process of law.

No doubt the prohibition[s] of the **Fourteenth Amendment** are limitation of the state alone and not on the actions of private individuals as such. [Citing **United States v. Cruikshank, 1987, 92 U.S. 542, 23 L.Ed. 588; State of Virginia v. Rives, 1879, 100 U.S. 313, 318, 25 L.Ed. 667; In re Civil Rights Cases, 1883, 109 U.S. 3, 11, 3 S.Ct. 18, 27 L.Ed. 835; Shelley v. Kraemer, 1948, 334 U.S. 1, 13, 68 S.Ct. 836, 92 L.Ed. 1161; Collins V. Hardyman, 1951, 341 U.S. 651, 658, 71 S.Ct. 937, 95 L.Ed. 1253**] Superficially, therefore, it might have seemed that in this case the *state* could not have deprived the plaintiff of any constitutional right, since it has been adjudicated by the high-est court of the state that the action which the registrar took was not authorized by state law.

But states can act only through human beings; and it has long been settled that when a state clothes an individual with official authority, and the official commits an abuse of power in the exercise of that authority, his action in the name of the state is state action within the meaning of the prohibitions of the **Fourteenth Amendment**, even though what he did was not authorized by the laws of the state. [Citing **Ex parte Commonwealth of Virginia, 1879, 100 U.S. 339, 346-349, 25 L.Ed. 676**]. And we think it is established also, whatever may have been the original force of argument for a more restricted statutory interpretations, that action taken by a state official in the purported exercise of authority conferred upon him by the state is action "under color of" a statue, ordinance, regulation, custom or usage, o[f] the state, within the meaning of 8 U.S.C.A. § 43, even though the action was not authorized, or indeed was prohibited, by state law. "Misuse of power, processed by virtue of state law and made possible only because the wrongdoer is clothed with the authority of state law, is action taken 'under color of' state law." [Citing **United States v. Classic, 1941, 313 U.S. 299, 326, 61 S.Ct. 1031, 1043, 85 L.Ed. 1368**. To the same effect see

Screws v. United States, 1945, 325, U.S. 91, 107 S.Ct. 1031, 89 L.Ed. 1945; Williams v. United States, 1951, 341 U.S. 97, 71 S.Ct. 576, 95 L.Ed. 774].

If therefore the official action of the registrar in suspending plaintiff's license must be deemed state action within the meaning of the **Four-teenth Amendment** and of the 8 U.S.C.A. §43, it is manifest that the plaintiff was not thereby deprived *by the state* of any right or privilege secured by the Fourteenth Amendment, unless the state could not, consistently with the require-ments of due process of law, have authorized the registrar to do what he did. [Emphasis added]

(Good cause for 28 USC 1446(c)(2) limitation relief & inclusion of omitted grounds)

Petitioner Johnston was denied the removal relief sought on Jan. 2, 1998 for want of artfulness in compliance with Supreme Court dicta requiring her to specify that the rights denied her come from "federal law providing for specific civil rights stated in terms of racial equality," see Johnson v. Mississippi, 421 U.S.213 (1975) at 219. This apparently purports to require her to disclose the relevant facts of her non-white race or color, and while this will be hereinafter set out, it is done so under the utmost protest with the observance that such a requirement is, in and of itself an illegal and racist "badge" restraining and oppressing not only citizens of color, but whites as well, who may among other things, see this type of "special people / special privileges" - "governmental program" as justification or incitement against people of color and as a means of keeping racist issues in the public eye. This effect is directly opposed to the de-escalating, race-neutral civil rights phraseology in the 14th Amendment which uses the terms "citizens" and "persons" instead of Negroes, mulattos, half-breeds, orientals and coloreds, or the more inflammatory terms. The 14th Amendment comports with great similarity to the race neutral phrasing of the Constitution at Art. IV, §2, clause 1 which reads: "The citizens of each State shall be entitled to all Privileges and Immunities of Citizens in the several States." It must be observed that to use one's position to restrain access to justice to those who are able to show the

necessary "badge" of race or color, and voluntarily do so is demeaning to both parties, and must be characterized as conduct imposed for improper racists purposes because legitimate governmental "justice-venue-doorkeepers" properly embrace colorblindness and neutrality in all such matters.

Firstly Reasonable Presumptions were made in light of the fact that the federal court[s] exist to provide an accessible forum for citizens to pursue justice. In the distressed circumstances and time constraints under which removal was sought, it was presumed, and Defendant-Petitioner would argue reasonably so, that review of the United States Code Chapter 89 on "REMOVAL OF CASES FROM STATE COURTS" with its historical and statutory references, would suffice for meeting the requirements and avoiding any pitfalls in securing needed federal protection from discrimination and violation of her rights in Indiana. In this regard, the very first words of the chapter (28 USC 1441(a)): "Expect as otherwise expressly provided by Act of Congress...." inform in a manner strongly suggesting that Congress intended to prevent the executive and judicial branches from imposing priggish devices including "decisional tests" for defeating the removal statute or otherwise restraining access to the justice forum it provided for protection in the event that a citizen's rights were either denied or could not be enforced in any state. In light of the constitution's separation of power into 3 branches, Defendant-Petitioner expected this general legislative declaration of intent to be accorded the respectful restrain of the other 2 branches, and thus submits that it was reasonable presumptiveness to rely on the value of those first words rather than to go off looking for some 20 year old dicta to limit or defeat the plain import of genuine congressional law written broadly enough to encompass federal protection of all citizens. If a lower court is effectively constrained by Supreme Court dicta in such circumstances and regardless of whether or not the dicta is usurpative or binding, then it must [be] observed that by a petitioner's good faith, reasonable act of reading the removal law with the assumption that its requirements and limitations would be there spelled out or referenced if critical to successful relief petitions by anyone with adequate facts, then it must be said that the entire removal chapter of the law sets-up petitioners for denial of the needed federal protection for failure to have been reasonably informed of the imposition of manipulative Supreme

Court "decisional tests" standards which only permit coloreds willing to raise the race-card[,] any possibility of relief, and then only upon the standards of other "decisional tests."

While Defendant-Petitioner is a person of mixed races and has personally experience prejudice, she was not aware of the Supreme Court's requirement of a petitioner's race disclosure plus attribution of racially based motivaters underlying the oppressive conduct, but these must have been in operation from the very first instance when the BMV clerk **unnecessarily adjudged** her to not be plain white enough when she made a judgmental comment that Defendant-Petitioner (dressed in plain solid colors) didn't look Amish. The reason that the pre-existing factual ground bearing on religious and racial judgments or issues underlying against Defendant-Petitioner Miss Johnston were not disclosed, was that she was under the apparently mistaken belief that all persons come equally before the court which is suppose to be colorblind as to persons of color or mixed blood, and neutral as to all matters religious. Moreover, as a grade school child when matters of race come up, her mother had directed her to *"always say white"* because there had been some discriminatory incidents because of her sister's darkness. Nonetheless the truth was known and while Petitioner often elects to formally identify her race as "human," her sister elected as different course for her daughter such that she was entitled to a race based college scholarship although of less colored blood than her mother and Defendant-Petitioner.

In the original removal, disclosures were not recited relative to Defendant-Petitioner's own color or race because she presumed that race or color motivations should not be emphasized or even acknowledged as justification for supporting oppressions or denial of any citizen's rights. Further she presumed race or color claims should not be a consideration or requirement for qualifying for federal relief remedies to protect her right to enjoy equal rights (guaranteed by the 14th Amendment, etc.) as do other citizens of Indiana who both, hold, license, sell and pay tax on their cars without incident giving rise to being arrested, having their cars illegally taken away from them, or having anything to do whatsoever with the traffic infraction racket. Further she submits that it was reasonable and proper to apply an ordinary understanding of words and phrases to case relevant §1443 which

plainly provides that:

> any of the following civil actions or criminal prosecutions, commenced in a State court may be removed by the defendant to the district court of the United States....where it is pending; (1)Against any person who is denied or cannot enforce in the court of such State a right under any law providing for the equal civil rights of citizens of the United States, or of all persons within the jurisdiction thereof...."

(Historical Authority)

The historical fact is, others[Ftn 1] besides the dark-skinned were freed and protected by the Reconstruction Era amendments and related congressional remedies, and removal was there to protect "all citizens" whose equal enjoyment of constitutional and other rights was oppressed or denied. Moreover, Defendant-Petitioner is not a racist, and did not reasonably foresee that usage of inclusively protective terms like "every person," "citizens," and "any person" in the post-Civil War Congress' constitutional amendments and civil rights legislation, could be misconstrued to deny federal removal protection to "any person," "citizens," or "every person" (except well-pleaded Negro petitioners exclusively claiming the motivation for the oppression of equal rights was prejudice upon such petitioner's coloring). A cursory review of racists literature would disclose NOT skin-color, but rather the perceived threat to the status quo combined with an economic inter-dependency and allegations of differences in intelligence level and moral conduct standards, as the root of discrimination giving rise to denial of rights. moreover that type of racist literature will find pure white Jews as reviled against as pure black Negroes or "half-breed mixed-race human." Therefore, Defendant-Petitioner argues that, if the Supreme Court "decisional tests" are to be acknowledged, it should also be acknowledged that "any citizen" denied his or her equal rights to enjoyment of the same rights, privileges and immunities which those seeking to discriminate would obstruct or withhold from their enjoyment, have been identified (by "every person" who so imposes themselves against them), as a "Niger" with all that that designation has ever implied. Thus is should be written as some new "decisional mandate" that whoever is discriminated against or denied their equal rights, privileges

and immunities is, for purposes of the law and vindication of their rights, already identified by the wrong-doer(s) as a "Niger," regardless of any consideration of the lightness or darkness of their skin coloring, rather than as a citizen. It could be called the citizenship error, subjecting the wrong-doers to corrective education. Citizenship being capable of demonstration by several methods, then becomes the only reasonable "decisional test" determining who may be treated unequally, or upon bias or prejudice. Therefore Defendant-Petitioner argues that all inquiries and tests into race, color, or a circumstance of bondage, are racist affectations and badges of discrimination, which can not be respectably perpetuated by "decisional tests" into the skin coloring; and just like matters of religion, race is an area in which the government must be silent, neutral, and color-blind. Further Defendant-Petitioner argues that historically it can be amply demonstrated that the broad and encompassing terms were intended to be for broad and encompassing inclusive relief purposes, not for limited interpretations for ignoring or perpetuating wrongs upon any citizen.

Defendant-Petitioner submits that she is a citizen who is entitled to equal rights in the estate of Indiana, and that she has been denied and can not enforce her equal rights to own, sell, or use real property, nor to be treated respectfully in the courthouses where she has sought relief from these wrongs; and further argues that the removal statute is plainly meant to promptly solve an unconstitutional discrimination problem of a state citizen without further burdening that citizen by imposing demeaning badges of delays with inevitable demands for "review or filing fees" and attendant out of pocket costs by requiring a course of pleas or appeals to the state responsible for the discrimination, under the unreliable theory that a state which would allow state discrimination in the first place, would cease and desist because some "Uppity Niger" or "trouble-maker"/"lesser person" discriminated upon, brings it to the state's attention! Defendant-Petitioner did not foresee such a naive intent form anyone understanding the nature of the problem well enough to have designed an immediate, perfect remedy to bring discriminating states into compliance with the anti-states'-rights-revolutionary Amendments arising after the Civil War (due to the flawed concessions of the original constitution) Nor does a plain reading of the statute in any way suggest that

any state so discriminating against one of its citizens should be accorded a continued opportunity to subject such citizen to even another day of discrimination so that it might do its own housekeeping and eventually remedy the problem discrimination toward such citizen, "lines of of well-settled" wrong decisions not withstanding. **The plain reading of the removal statute, means the state problem is solved immediately and respectfully in federal court, because such state discriminatory problems are NOT allowed to exist (as of the ratification of and enforcement implementation of the 13th, 14th, and 15th Amendments).** Moreover, the damages to such a discriminated-against state citizen are federally terminated and remedied, and properly and reasonable so by the federal court's removal-related power at the first instance of such a problem (**rather than defeating the removal control against a discriminatory state and negligently** encouraging it by blindly letting it continue unmitigated so long as it chooses). In the circumstances of state based discrimination against citizens, judicial restraint or "abstention" is the root of decades of state-based discriminatory practices against citizens. Petitioner-Johnston submits that her reading of the removal chapter was reasonable, and that she would not have been misled thereby but for what appeared to be influential racists limitation improperly honored. See **Johnson v. Mississippi, 421 U.S. 213 (1975) at 219**, etc. She further argues that all racists tests and qualifications are now, and have been for more than a hundred years, null[,] void and of absolutely no justifiable consideration in the discharge of removal protection duties by those under oath to support and uphold the US Constitution and all laws pursuant thereto. Further it is submitted that [the] foregoing understanding is not only reasonable, but that it should be controlling regardless of whether or not her great grandmother was a "fully colored" human being subject to miscegenation law and race discrimination. Moreover at the very least, this disclosure of Defendant-Petitioner's reasonable presumption and common sense understanding, should be regarded as a good cause for allowing race or color grounds, known but not cited, at the time of the original removal petition to be included for consideration, if absolutely necessary, however offensive.

(Infraction processing denies rights
by the very act of bringing citizens into court)

Removal Petitioner Johnston, like most other citizens of Indiana

as well as a significant portion of the state's legal professionals, was unaware of the pre-esisting statutory dilemma underlying the state's prosecution of her in the matter of a certain non-moving traffic "infraction," in fact this dilemma underlines the prosecution of all infractions in Indiana. The requ[s]ite understanding initially flowed form the holdings in Wirgau v. State[,] Ind.App., 443 N.E.2d 317 (1982) which for reasons the legislative body is uniquely qualified to explain, is only to be found (in relation to the big secret) meaningfully referenced in annotated infraction law sections in *superseded* law books. Of course the Northeast Reporter is available, but the custom is to rely on the summaries. Since the critical issue isn't tagged, discovery would be quite extraordinary, and it is only silence upon such issue (which need only be construed with relevant portions of the state constitution and general court rule book) that supports the infraction racket. The superseded books, it should be observed are kept essentially secluded form public discovery as well as convenient discovery by legal practitioners. The Wirgau case says in relevant portion:

> The procedure for infractions is now found in IC 34-4-32-1 to 5, wherein the language instructs:
>
> [T]he proceedings are to be conducted in accordance with the Indiana Rules of Trial Procedure [IC 34-4-32-1(c)]; the plaintiff must prove the commission of the infraction by only a preponderance of the evidence [IC 34-4-32-1(d)]; and punishment for any infraction is merely a fine IC 34-4-32-4]. There is no provision for any criminal procedures. Thus, the legislature has mandated a change in the handling of traffic infractions. It is, of course, very significant that the legislature, in the same act which changed infractions to a civil procedure also eliminated the requirement of advising traffic defendants of their constitutional safeguards, except for traffic misdemeanors. Finally, we observe in Indiana there are on common law crimes. All crimes are statutory and enumerated in the legislature. Stephen v. State (1886) 107 Ind. 185, 8 NE. 94; State v. Lopez. (1973) 156 Ind.App. 379, 296 N.E.2d 918

Examination of the Indiana Constitution, Art. 8 § 18 demonstrates that "all *criminal* prosecutions" are to "be carried on in the name, and by the authority of the state" and "the style

of all process shall be" 'The State of Indiana,' and indeed the record will show Defendant-Petitioner was commenced against in that uniquely identifying manner. Since the beginning of the country, there have been two systems of judicial branch dispute resolution(separated into distinct courthouses in some jurisdictions): **the civil courts** (which are based upon the principle that no there is no private wrong without a remedy which over time evolves into an *American* body of common law), **in which *the citizens* resolve disputes against fellow citizens under the "preponderance of the evidence" standard and the civil rules of court procedure as distinct from the criminal rules and standards;** and the criminal courts, in which the "state of..." or "the people of the state of..." formally accuse citizens of public wrongs or crimes which have been designated by the legislative body as a matters for imposition of *governmental penalties* **under the "guilty beyond a reasonable doubt" standard and the criminal rules of court procedure.** This difference is due to the ongoing power, expertise and prosecutorial resources of the government as compared with that of the ordinary citizen. *And it should be observed that the civil courts are for citizens' enjoyment of civil court "private case prosecution" rights, and that the government funded by the public purse doesn't have such civil court or any civil rights endowment* because all of its prosecutions are public prosecutions.

The very fact that the "Infraction and Ordinance Violation Enforcement Proceedings" (IC 34-28-5-1(a) & (c)(1)) attempts to set it out that an "action to enforce a statute defining an infraction shall be brought in the name of the state of Indiana by the prosecuting attorney..." (which bespeaks of a public/criminal prosecution matter) and that such government prosecutions "shall be conducted in accordance with the **Indiana Rules of Trial Procedure**" (which is the general civil court rule book) **which in relevant part, at Rules 1 and 2), informs litigants that "these rules shall govern...in all suits of a civil nature...."** and that the "right of a civil action is *not merged in a public offense or a public remedy, but may, in all cases, be sought independently of and in addition to the punishment given or relief granted for the public offense,*" *demonstrates the fraud of the entire "civil" infraction racket.*, Additionally **Ind. Gen. Court Rule 76(A) &(B) both reads in relevant part, "[t]he Rules of Criminal Procedure shall govern proceedings to enforce a statute defining**

an infraction." This further demonstrates that the "civil infraction" statute is a public criminal prosecution. Defendant-Petitioner submits that the infractions laws are fatally flawed, barring all prosecutorial activity. Public prosecution is in effect proscribed by the aforesaid court rules (1 & 2). *Moreover the Ind. Rules of Criminal Procedure are totally irrelevant to conduct which (as ones learns in the aforesaid Wirgau holding), the legislature has excluded from designation as crimes or offenses.* Thus there is absolutely no basis for prosecution of "non-offense" / "infractions" either civilly, or criminally. The legislature has in effect removed all jurisdiction for entertaining complaints against alleged infractors such as Defendant-Petitioner Miss Johnston. Additionally let it be noted that **Ind. Const., Art. 7, §8** provides that the "Circuit Courts shall have such civil and criminal jurisdiction as may be prescribed by law," and **Art. 3, §1** provides for a republican form of government with its 3 co-equal branches and "no person, charged with official duties under one of these departments, shall exercise any of the function[s] of another, except as in this Constitution expressly provided." Also see **US Const. Art. IV. § 4** by which the United States guarantees a republican form of government to every state in the union.[Ftn. 2] Thus, in light of **IC 34-28-5-1(c)(f)** which provides that the prosecuting attorney may "establish a deferral program for deferring actions" brought under the infraction laws (where there is no constitutional authority to pursue either civil or criminal court collections anyway[Ftn 3]), and the "prosecutorial practice" or custom under color of law (with the attendant fees provide by the legislature for prosecutors' participation in the infraction money racket), results in precisely the prosecutorial undertaking of judicial arraignment duties coupled with money solicitations as Defendant-Petitioner was subjected to on Dec. 4, 1997, and this is a violation of both state and federal constitutional rights to the republican form of government and the neutral magistrate or judge necessary to due process of law. By **1981 Public Law 108, §37**, the legislature provides for the optional operation of a clerk's traffic violations bureau, see **IC 34-4-32-5**. Monroe County didn't exercise this infraction option, rather the county prosecutor office undertook money collection activities as aforesaid.[Ftn. 4]

In **Hass v. Shrader's Inc., 534 N.E.2d 119, 1120 (Ind. App. 4 Dist. 1989)** it was settled that:

> In 1983 the Legislature "decriminalized" the traffic code, reducing many offenses which had previously been misdemeanors to "civil infractions," and at the same time amending the criminal code's definition of "offense" to specifically exclude infractions and read: "Offense" means a crime. The term does not include an infraction.

An infraction is not an "offense," in view of the more recent definition of "offense' in IC 35-41-1-19, **Horne v. State, 572 N.E.2d 1333 (Ind. App. 1991)**. "Infraction" means a violation of a statute for which a person might be fined, but not imprisoned, IC 33-1-13-1. The "big secret" has been known in the state of Indiana's judicial offices as well as in the legislature and the governor's office for many years (legislator, now governor O'Bannon authored the infraction scheme), and these are the very public servants depended on to honor the constitutions and respect the common citizens of Indiana. Thus the holding in Horne, at p 1337 is to be weighed fully against them:

> It may be noted that the 1981 decriminalization process was not motivated by any complex design to delineate between and among crimes, traffic violation, and civil proceedings. Rather, **the purpose of the change was prompted, very simply, by a legislative desire to channel additional funds into the state general fund**. See I.C. 34-4-32-4. Prior to the statutory change, all such violations were deemed and were in fact breaches of the penal laws of the state, the fines for which were constitutionally required to be paid into the Common School Fund. Ind. Const., Art. 8, § 2.

IC 34-28-5-5(a) provides: A defendant against whom a judgment is entered is liable for costs. Coasts are part of the judgment and may not be suspended except under IC 9-30-3-12...(c) "Except for costs, the funds collected as judgment for violations of statutes defining infractions shall be deposited in the state general fund. Defendant-Petitioner submits that no evidence of an adequate contitutional amendment exits.

Defendant-Petitioner submits that the statutory framework against which the infraction complaint against her stands is a

multi-million dollar criminal conversion under color of law against the Common School Trust Fund and the violation of the constitutional trust of the people of Indiana, and posterity, as authored and now enforced by Governor O'Bannon, 'the education governor,' is contemptuous of the Ind. Const., Art. 8, which mandates that the "fines assessed for the breaches of the penal laws of the State....shall be deposited and remain in a "perpetual funds, which may be increased, but shall never be diminished..." with "the income thereof" inviolably appropriated to the support of Common Schools, and to no other purpose whatever..."and that "all trust funds, held by the State shall remain inviolate, and be faithfully and exclusively applied to the purposes for which the trust was created."

Thus from examination of certain sections of the Indiana Constitution in conjunction with the infraction laws, Defendant-Petitioner submits that it becomes known[,] *that it has been known[,]* for some considerable time[,] *by all the right people*, that due to "the operation of a pervasive and explicit state...law," by the "very act of bringing [her as] the defendant to trial in the state court," her rights would be denied. This is the "decisional test" standard in City of Greenwood v. Peacock, et al, 384 U.S. 808 at 827-28, 86 S.Ct. at 1812. Moreover, Defendant-Petitioner did not fully grasp the enormous magnitude and financial consequences of the operation of the state's infraction racket, nor the extent and extraordinary vulnerability of its legislative underpinnings, nor the ongoing politically powerful interests ready to frustrate or silence any threats to its continuation and their own careers. Such improprieties would not reasonably have been anticipated *as even existing[,]* given the legal presumption that long standing laws and procedures are constitutional. And she submits that she has demonstrated the prejudice against her by having undertaken the long, burdensome course in attempted vindication of the incidents of denied civil rights (with all the attendant burdens of paying filing and document fees, printer's fees, etc.), and that the experience fully demonstrates and proves that her BMV rights and her courts rights ARE NOT ENFORCEABLE so long as the state of Indiana is at liberty to continue "business as usual." Further Defendant-Petitioner submits that said infraction enterprise with increasingly more and more acts or omissions being changed from crimes to "civil infractions," sounds in a RICCO[Ftn 5]

pattern under color of law. See the Expansion section for the identification of each cause of action in attempted vindication of Defendant-Petitioner's civil rights.

The reasons for re-activation and expansion of the Jan. 2, 1998 removal action to include the adverse and responsible entities against Defendant-Petitioner's civil rights vindication petitions from that date through her state court action filed July 18, 2000 (a section 1983, etc. civil rights suit filed in state court (partially due to the ongoing state oppression of not being able to either drive her own car, nor rent a car), arise from the very fact and circumstances of the failure of all such efforts, in expensive demonstration of the naivete of allowing the state of Indiana to have an opportunity at Defendant-Petitioner's expense to straighten out its own affairs and go forth respecting the rights of all of its citizens. Thus, it must be observed that from the get-go, the state of Indiana['s] cooperative infraction targeting and undertakings against Defendant-Petitioner were a complete nullity with a purpose to deprive her of her property, rights and privileges without due process of law.

"EXPANSION"

The aligned conduct of Defendant-Petitioner's opponents supporting expansion began on, or about Jan. 9, 1999 with her pursuit of civil rights vindication by means of the state court appeal as suggested in the Jan. 6, 1998 "Entry Discussing Removal of Action and Directing Remand," and it has continued through November, 2000. The causes of action in vindication of Defendant-Petitioner's civil rights flowing from the first incident at the BMV are:

State of Indiana v. Lynn D. Johnston
Case No. 53CO5 9711 If 07836 [original infraction complaint]

Lynn D. Johnston v. Monroe County Court
Case No. IP 98-0004-C-M/s [removal action]

Lynn Johnston v. The Bureau of Motor Vehicles, et al
Case No. IP 98-0621-C-H/G [federal civil rights suit]
Lynn D. Johnston v. Randy Williamson (Sheriff)
Case No. IP 98-1012-C-T/G [habeas corpus petition and

motion from the Monroe County Jail]

Lynn Johnston v. Hon. David F. Hamilton
Case No. 98-3519 & 98-3682 (v. the Bureau of Motor Vehicles Commission) [7th circuit mandamus petition]

Civil rights appeal
Case No. 99-1294 [US Supreme Court]

Lynn D. Johnston v. State of Indiana
Case No. 53AO1-9909-CR-325 [attempted infraction appeal, and transfer denied] It should be noted that while the claim of appeal and praecipe to the clerk[Ftn 6] for the complete certified record was filed with a deposit on Jan. 9, 1998, the clerk's certificate purporting to authenticate the record was only obtained with the persistent assistance of an Indiana Court of Appeals clerk on Sept. 22, 1999, and the right of appeal was stifled by manipulative devices.

In Re Lynn D. Johnston v. State of Indiana
Case No. 99-1696 [US Supreme Court- infraction - Petition for extraordinary writs]

In addition, with respect to the May 7, 1998 federal civil rights suit, legal consultations or attempts to effect suit revival or relief federally extended into June, 1999 and were not successful either through the 7th Circuit Court of Appeals or the US Supreme Court, nor through the Administrative Office of the US Courts, the Judicial Counsel of 7th Circuit, the Director of the Federal Judicial Center, or the Senate and House Judiciary Committees. Prior to that Defendant-Petitioner petitioned the Indiana legislature's majority leader, Mark Kruzan's office for relief from the Monroe County Clerk's Office problems, but to no avail with the representation made to her that county clerks are not impeachable. Interviews were also sought with a number of experienced regional trial attorneys o[r] law businesses, and undertaken with 7 of them, one taking nearly 2 months to evaluate the documents and causes of action. Retainers as high as $10,000.00 were cited as a precondition of filing anything at the Indiana Court of Appeals.

Subsequent to the drafting of the removal notice, Defendant-

Petitioner knew that her attempted state court appeal was being obstructed and court records were being tamper[ed] with and evidence was being manufacturer; and she knew that university corporation cops in conspiracy with others (upon her refusal to rewrite her May 7, 1998 federal civil rights suit omitting defendants according to their demands, sounding in violation of 42 USC 1985(2)) arrested and placed her in jail for 40 days solitary confinement (similarly by the misleading use of regular-looking police uniforms for promoting violation of the state statute which only allows for the jail's receipt of prisoners from department of corrections officers, sounding in violation of 42 USC 1983), during which period without quashing the summonses[,] said federal civil rights suit was dismissed and all of the pleadings in mitigation of dismissal which Defendant-Petitioner had filed (retaining time-stamped copies[Ftn 7]), disappeared from the US District Court record file (although the returns of service remain). By the Feb. 8th, 1999 when this matter was otherwise at the US Supreme Court door, Defendant-Petitioner was, unlike other postal patrons, refused service and obstructed from mailing 33 Express or Priority premium service items (in violation of 18 USC 1701, sounding in violation of 42 USC 1983, and while on the premises subjected to an attempted robbery of the Express Mail box with the $300.00 filing fee and all petition booklets and other time-sensitive legal documents then required at the US Supreme Court in violation of 18 USC 1708). Hours later upon her departure from said post office, opponent university corporation cop (Stephenson) was waiting and made another irritating comment to Defendant-Petitioner.

"A state cannot directly or indirectly punish or prohibit the exercise of the right of removal of [a] case to federal district court." See **Tool and Die Makers Lodge No. 78 Intern. Ass'n of Machinists, AFL-CIO v. General Elec. Co., X-Ray Dept., D.C. Wis.1959, 179 F.Supp. 945.** "Term 'civil action' in statute, 28 U.S.C.A. § 1441, did not require that ~~entire~~ action be within federal court's original jurisdiction in order for it to be removable; therefore § 1983 damage claims could be treated as a separate "action," and removable." See **Langford v. Gates, D.C.Cal. D.C.Ca.1985, 610 F.Supp. 120.**

"Case which involved common-law fraud and numerous related state law claims as well as Racketeer Influenced and Corrupt

Organizations Act (RICCO) and securities law claims was removable; case as a whole could not properly be characterized as a securities case within the meaning of statute giving federal and state courts concurrent jurisdiction of securities claims and preventing removal of securities cases once brought in state court." See Gallagher v. Donald, S.D.N.Y.1992, 803 F.Supp. 9899, adhered to on reconsideration 805 F.Supp. 221.

On July 18, 2000 Defendant-Petitioner filed a state court section 1983 etc. suit in continuing attempt to vindicate her civil rights deprivations, see Indexed Exhibits, document B. On July 25, 2000, Monroe County Judge Mann (a defendant) [was randomly assigned the case, and] contrary to normal procedure when no local judge is willing to receive a case, the case was [by her then directed and] pigeon-holed at the State Court Administrative Office (theoretically for the Indiana Supreme Court to make an assignment of a judge to facilitate processing of the suit) where Defendant-Petitioner is informed that they may take months.[Ftn 8] It bears mentioning that as a result of obstructive acts and omissions in the Monroe County Clerk's Office, the suit was not served as directed thus providing numerous defendants with defenses were Defendant-Petitioner to proceed to default them, and the summonses are only good for 180 days, most of which period, the Indiana Supreme Court is in effect, running out. Additionally with respect to the properly served defendants, the clock is running on discovery. All of this creates additional unwelcome problems for Defendant-Petitioner. Indexed Exhibits C are Defendant-Petitioner's motions and so on, which are in effect being stymied and blocked from their normal course. Among such unheard pleadings is Defendant-Petitioner's declaration of intent to" seek federal supervision" in the event that the due process and misconduct continued. While federal supervision isn't normally available per se, removal does embrace the authority to impose appropriate remedies, and these are long overdue. Therefore, in light of the sample of the imposing problems thrust upon Defendant-Petitioner and the continued denial or oppression of her equal BMV right and meaningful court access right, she submits that an evidentiary hearing should be ordered, in effect embracing removal of the July 18, 2000 civil rights suit, for the purpose of making such dispositions as justice shall require. Defendant-Petitioner's Memorandum of Law (relative to immunity claims, etc.) will be forthcoming.

CONCLUSION

Politics is a noble endeavor, because that is how we create the future. In the end, what we do communicates far more persuasively than what we say. The government has exceeded the peoples' constitutional limitations upon it under color of law, oppressing not only people of color, but effectively identifying as a "Niger" (subject to all the degrading acts and omissions that inflammatory term implies), all who oppose its lawlessness. Those who have so willingly and so long usurped political and financial power from the citizens whom they theoretical serve, have exceed all expectations as to what arrogance and greed could be gotten up to. These are the kind of people who can make a lot of vindictive trouble, and are willing to make the system punish those who get in the way of their common goals. Defendant-Petitioner is denied and can not enforce the specified federal rights in the courts of the state of Indiana by reason of the operation of a pervasive and explicit state infraction law given the loyal protection of all those with political and financial interest in defeating both federal and state constitutions. The fact that Defendant-Petitioner Johnston's rights have been repeatedly oppressed in the attempted vindication of her civil rights in the infraction racket "system" predictably flowed from an improper denial of services at the BMV. And it should be realized, once the magnitude of the penal/infraction money conversion racket and the enormously powerful interest behind it are weighed, that even those who might have been inclined to give some measure of relief to Defendant-Petitioner would understandably be reluctant to "risk a career-decision" in so doing, thus she would inevitably suffer perpetual delays and obstacles as a result of the very act of seeking state court process for vindication of her rights. Defendant-Petitioner's cause of action is compelling and therefore this Honorable Court should proceed to issue the proposed show cause order to facilitate the justice so long denied Miss Johnston.

Respectfully submitted,

Dated: December 4th, 2000 /s/_____Miss Lynn Johnston
816 Auto Mall Road, #243, Bloomington, IN 47401 (812-339-7862)

Affidavit in Support of Facts

Lynn Johnston, Plaintiff-Appellant in this matter, being duly sworn, says: that she has read the forgoing brief and the

following indexed exhibits [and] the content[s] therein are true to the best of her own knowledge and belief. Further she says not.
Dated: December 4th, 2000 /s/_____
Miss Lynn Johnston, Defendant-Petitioner
Signed and sworn before me a notary public on this 4th day of December, 2000.
My commission expires: 8-27-01 /s/ Sue Ann Meredith
SEAL Notary Public

[Ftn 1: "....in the United States, servant was the usual designation for a slave. Unmarried White women servants who became pregnant, as did an estimated 20 percent...had their children taken from them and sold...to another master." See Hoffman's 1991 book **They were White and They Were Slaves: The Untold History of the Enslavement of Whites in Early America**, pp.48, 90, ISBN 0-929903-05-6, and sources therein.
Ftn 2: The act of April 19, 1816 "proviso" enabling the Indiana territory people to form a constitution, state government and be admitted into the Union, was that its form "shall be republican, and not repugnant to [the July 13, 1787 Northwest Ordinance]...."

Ftn 3: Pursuit of prosecutorial "deferral program" participants enlarged Defendant Salzmann's office coffers by $235,889.75 in 2000, by $199,190.50 in 1998 and by $106,148.00 in 1997.

Ftn 4: Defendant Haley facilitates the collection enterprise by allowing Executive Branch interlopers to run their prosecutorial "deferral schemes" from the clerk's office and counters, and she participates by mailing under color of her office, infraction "default judgment" notices, threatening loss of drivers licenses.
Ftn 5: See 18 USC 1962 ["RICO"], 1341, 1503, 1510, 1512, and 1513. regarding pattern racket collection of unlawful debts.
Ftn 6: See App. F p. 135, and App. G pp. 136-138.
Ftn 7: See App. D p. 113 for one of the missing documents.
Ftn 8: A few days before Petitioner sought federal relief Dec. 4, '00, she phoned the Indiana Supreme Court Clerk's Office where it was represented that no reassignment order had been made and it could be several more months. Nonetheless by certified copy and Dec. 4, '00 metered mail, re-assignment to retired Indiana appellate judge Jonathan Robertson was represented as having occurred on Monday Nov. 27, '00. None of the pending motions has yet been decided, nearly 6 months later]

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF INDIANA
INDIANAPOLIS DIVISION

Removal Petition *In Re* **Criminal Case No. 53CO5 9711 IF 07836, Monroe County Court**

State of Indiana, County of Monroe Officer Andy Stephenson Indiana University Police Department, Plaintiff-Respondent,	)	**Case No. IP98-0004-C-m/s**
v.	)	
Lynn D. Johnston, Defendant-Petitioner.	)	

INDEXED EXHIBITS

Verified Removal petition filed January 2, 1998 **A**

July 18, 2000 Complaint **B**

Motion to Strike Attorney Appearances **C**

Motion to Strike Dep. Att. Gen. Priscilla Keith's "Notice of Representation by Prosecuting Attorney"

Notice of Objection to Covert Intervention in State Case Judicial Branch Process with Demand for Officials & Court Officers to Comply with Due Process Forthwith or in the alternative Notice of Intent to Seek Federal Remedies & Supervision, etc.

Plaintiff's Response Against Motions Extensions of Time

Motion to Strike Dep. Att. Gen Duga's Motion to Dismiss Jeffrey Modisett

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF INDIANA
INDIANAPOLIS DIVISION

Lynn D. Johnston,	)	Cause No. IP 98 0004 C-m/s
Petitioner,	)	
	)	
In Re	)	
Criminal Case No. 53 C 05 9711	)	
IF 07936, Monroe County Court	)	
Respondent.	)	

FILED
1998 JAN -2 PM 1:41
GERALDINE T. CROCKETT
CLERK

PARTIES

Petitioner's Name and Address:	Respondent's Name and Address:
Miss Lynn D. Johnston	Monroe County Court
816 Auto Mall Rd., #243	Justice Building,
Bloomington, IN 47401	301 N. College
812-335-2070	P.O. Box 547
	Bloomington, IN 47402
	812-349-2614

NOTICE OF REMOVAL

Pursuant to 28 USC §§ 1443 & 1446 Petitioner Johnston NOTICES the above identified criminal case lying against her in the Monroe County Court as timely REMOVED from said court, and now lodged in the United States District Court, 46 E,. Ohio Street, Indianapolis, Indiana 46204 (phone no. 317-226-6670), and states the following as grounds:

1. Meaningful access to the Monroe County Court (and the Bloomington License Bureau) are denied to me.

2. My timely Appearance, Plea, Demand for Trial by Jury are of no effect, and neither are my requests for assistance to resolve the underlying problem.

3. By post car dated December, 18, 1997, the Monroe County Court notified me that I "failed to appear," "default judgment was entered," and that "notification will be sent [on January 8, 1998] to the Indiana Bureau of Motor Vehicles to

Have" my "license suspended"; [A copy of this document is appended hereto]

4. Pursuant to the complaint and summons I appeared in the courthouse on December 4, 1997 at approximately 1:00 pm, checking in with a female clerk who noted my appearance on a paper and advised me that my case would be called shortly, and thus a witness and documentary evidence exists for the proofs; [A copy of the "Complaint and Summons" document is appended hereto]

5. When my case was called I attempted to make my official appearance pro se (pursuant to the requirements of the Indiana General Court Rules upon criminal defendant or their lawyers) and to determine the identity of the man conducting the hearings whom I initially presumed to be a neutral magistrate or judge but who treated me in a rude, abusive and intimidating manner toward the extraction of either immediate payment of the fines and costs or entry of a plea (he was subsequently identified as Monroe County Prosecutor Jim Trulock);

6. In response to Deputy Prosecutor Trulock's demand for my plea I said "I stand must" (and I saw him note my words on the "number 10 envelope size" piece of paper upon which he was recording information about my case), and thus another piece of documentary evidence exists for the proofs;

7. Deputy Prosecutor Trulock attempted further to upset me with his threat to call for a judge immediately (and this was the moment that I realized he wasn't a judge himself), but upon my enthusiastic response to his threat, he immediately switched his tactic and Ordered Monroe County Deputy Clerk "Kim" NOT to get a judge (and she obeyed his Order), thereby distressing me greatly, causing me deprivations, and obstructing my access to a neutral magistrate or judge, and thus another witness, "Kim," exists for the proofs;

8. Monroe County Court Deputy Clerk "Kim" provided me with the Monroe County Superior Court case number that either Deputy Prosecutor Trulock or some other unknown executive or judicial branch official had assigned in response to the Police Complaint and Summons (which bear a different number), and

received my Appearance Form for filing in the case file, date-stamping both the court original (which she retained) and my copy, thus more documentary evidence exists for the proofs; [A date-stamped copy of my "Appearance Form" is appended hereto]

9. Less than a week later I timely filed and served my "Demand for Trial by Jury," obtaining a date-stamped copy of said pleading for my own file; [A copy is appended hereto]

10. To date neither the arresting police officers who represented that I was NOT under arrest but would NOT let me go upon my expressed intention to leave in my own car, nor any judge or magistrate have advised me of my Miranda, due process, assistance of counsel, trial by jury or neutral magistrate, or any other rights or protections or cautions for my liberty, person or property, nonetheless my car was seized from me and impounded at an undisclosed location (apparently unknown to the police) in the absence of any felony, warrant, or receipt for my valuable property (which I spent many hour[s] and a lot of money "ransoming back" the following day), and I was subject[ed] to being seated and transported in the back of a police squad car;

11. To date no neutral judicial branch magistrate or judge has solicited my Plea, no bona fide court has been convened for the purpose of lawfully proceeding with the criminal charges filed against me;

12. The refusal of the clerks at the licensing bureau to receive my cash or postal money order payment of the motor vehicle sales tax and the license plate fee in order to obtain a license plate for my car thus provides the police, the contract tow and impoundment operators, and the Monroe County Court with the opportunity to have an ongoing economic interest in repeatedly seizing my car, and coercing monies from me to retrieve my car and prevent my motor operator's license from being suspended, or in the event that I don't acquiesce to such lucrative racket, I am set-up to be arrested, have insurance problems, and be deprived of my liberty to travel by rented cars (which require a drivers license in good standing), and thus suffer inequalities and deprivations which give rise to a forthcoming related civil rights suit for damages and other remedies;

13. Petitioner's experiences have convinced her that her right of equal access and use of the Indiana state court system have been FORECLOSED, and that the foregoing demonstrates a pattern of associated vexatious, abusive, malicious, discriminatory acts and omissions carried out by persons acting under color of law to oppress, obstruct, delay and deprive me of my constitutional[ly] held rights, privileges and property. **THEREFORE** Petitioner requests a prompt EVIDENTIARY HEARING, dissolution of the criminal conviction arising from the fraudulent default entry order, expungement of any record (including court and police computer data bases), related to the suspension or attempted suspension of my motor vehicle operators license arising form the situation at the Monroe County Court, and for such other dispositions of the prosecution as justice shall required.

January 3[sic], 1998 /s/ _____
Lynn Johnston, Petitioner pro se
816 Auto Mall Rd., # 243 Bloomington, IN 474701 812-335-2070

VERIFICATION

As the Petitioner pro se in the foregoing NOTICE OF REMOVAL, I swear or affirm that I have read all of said Notice of Removal, and that to the best of my personal knowledge and belief the same constitutes a true, correct, and fully justified action.

Signed this 3rd[sic] day of January, 1998 /s/ _____
Lynn Johnston, Petitioner pro se

APPENDED DOCUMENTS

The only process, pleadings or other orders served upon me in this case are:

- the police "Complaint and Summons;" and
- the court's post card notice of entry of Default Judgment and intent to cause suspension of drivers license

The only items I have filed and served are:

- my "Appearance Form (Criminal)"; and
- my "Demand for Trial by Jury."

The aforesaid 4 documents are appended in date sequence.

[redacted]

INDIANA SS NC 020148

☐ INFORMATION AND SUMMONS
☒ COMPLAINT AND SUMMONS

STATE OF INDIANA
COUNTY OF MONROE

COURT: CIRCUIT
CAUSE NO:
DOCKET NO: PAGE NO:

The undersigned having probable cause to believe and being duly sworn upon his oath says that on:

DAY 24 | MONTH NOVEMBER | YEAR 1997 | TIME 10 17 PM

LAST NAME JOHNSON | FIRST LYNN | MIDDLE D.

STREET ADDRESS 816 AUTO MALL RD. #243

CITY BLOOMINGTON | STATE IN | ZIP 47401

RACE W | SEX F | AGE 50 | DOB 05/03/47 | HEIGHT 5'04" | WEIGHT 145

OPERATOR'S LICENSE NO 0130242093 | STATE IN

☒ DID UNLAWFULLY OPERATE IN MONROE COUNTY

VEH COLOR	VEH YR	VEH MAKE	VEH LIC YR	VEH LIC ST	VEH LIC NO.
BW	82	TOY			

LOCATION (A PUBLIC STREET OR HIGHWAY) ATWATER FACULTY

DID COMMIT THE FOLLOWING OFFENSE:

NO REGISTRATION PLATE

Contrary to the form of the State Statute., I.C. 9-18-2-29

☐ Misdemeanor ☒ Infraction ☐ Other

OFFICER'S SIGNATURE [signature] | ID NO 84

DIV DIST BLOOMINGTON DIV. | POLICE AGENCY INDIANA UNIVERSITY POLICE DEPT.

APPROVED BY _____ Prosecutor / Deputy prosecutor

_____ Judge/Clerk on _____, 19 ____

COURT APPEARANCE- I Promise to appear as follows or be subject to arrest and / or license suspension (IC 9-30-3-8)

COURT	DAY	MO	YEAR	TIME
CIRCUIT COURT	04	12	97	1:00 P.M.

COURT ADDRESS
JUSTICE BLDG. 301 N COLLEGE, BLOOMINGTON, IN

Your signature is not an admission of guilt nor of a violation | Signature [signature]

APPEARANCE FORM (CRIMINAL)
State of Indiana

FILED
DEC 04
CLERK MONROE CIRCUIT COURT

Case Number: 53 C05 9711 I F07876 (File stamp)
(To be supplied by Clerk at the time of filing)

1. Name of Defendant(s): Johnston, Lynn D.
(See Administrative Rule 1(B)(4) for multiple charges or defendants)

2. Case Type of proceeding: Criminal - Traffic Infraction
(See Administrative Rule 8(B)(3))

3. Prosecuting Attorney information (as applicable): Kim - Deputy Clerk

Name: ~~Kim Hamlock~~
Address: Deputy Prosecutor
301 N. College
Bloomington, IN 47404
Attorney No.
Phone: 349-6709
FAX:
Computer Address:

* Deputy assigned case (Optional): Myrna Love - Director of Infraction Diversion Program

4. Will the State accept service by FAX: Yes __ No X

5. Arrest report number (Originating Agency Case Number): N/A

6. Additional information required by state or local rule: Lynn Johnston
pro se
812-335-2070
816 Auto Mall Road
Suite 243
Bloomington, IN
47401

Authority: Pursuant to Criminal Rule 2.1(A), this form shall be filed at the time a criminal proceeding is commenced. In emergencies, the requested information shall be supplied when it becomes available. Parties shall advise the court of a change in information previously provided to the court. This format is approved by the Division of State Court Administration.

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STATE OF INDIANA)
) ss:
COUNTY OF MONROE)

IN THE MONROE CIRCUIT COURT
CASE NO. 53 C05 9711 IF 07836

OFFICER ANDY STEPHENSON, Indiana University Police Department,
Plaintiff,

vs

LYNN JOHNSTON,
Defendant.

DEMAND FOR TRIAL BY JURY

Defendant hereby gives timely notice of the Demand for Trial by Jury relative to the above identified matter this 8th day of December, 1997.

Respectfully Submitted,

FILED
DEC 08 1997
CLERK MONROE CIRCUIT COURT

/s/_____

Lynn Johnston
816 Auto Mall Road, #243
Bloomington, IN 47401
812-335-2070

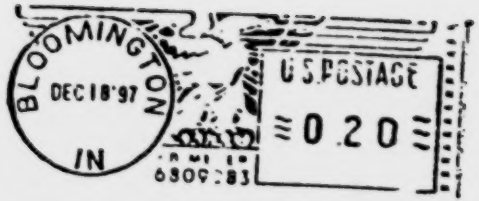
Certificate of Service

I hereby certify under penalty of perjury that I have this 8th day of December, 1997 hand delivered a copy of the above document to the Monroe County Prosecutor's Office, 301 N. College, Bloomington, IN, with the same being sealed in an envelope marked "Attention: Deputy Prosecutor Myrna Love, Director of Infraction Diversion Program.

/s/_____
Lynn Johnston

8

Date: 12/18/1997



You failed to appear 12/04/1997 for your traffic hearing, and a Default Judgment was entered against you. If you do not pay your fine by 01/08/1998, notification will be sent to the Indiana Bureau of Motor Vehicles to have your license suspended.

TO: LYNN JOHNSON
816 AUTO MALL ROAD #243
BLOOMINGTON, IN 47401

Case Number: 53C05 9711 IF 07836
Total Due: $82.50

MONROE COUNTY [illegible]
P.O. BOX 547
BLOOMINGTON, IN 47402

349-2602

812-349-2602

9

FILED
JUL 18 2000

STATE OF INDIANA)
COUNTY OF MONROE) ss:

IN THE MONROE CIRCUIT COURT
CASE NO. 53 C04 0007 CP 01040

Lynn Johnston, Plaintiff,
vs

JURY TRIAL DEMANDED
NOTICE: Court access fees solicited as a condition of petitioning pursuant to the First Amendment for redress of grievances in the Judicial Branch are paid under protest.

Frank O'Bannon (associated with Ind. Gen. Assembly & Off. of Govnr.); Dgls. R. Bridges, Kenneth G. Todd, David L. Welch, Elzbth. Mann, E. Michael Hoff, Marc R. Kellams, Melissa B. Starry (assoc. with the Off. of Cir. Court Judge); Carl Salzmann, Jim Trulock, &Jeff Kehr (assoc. w. the Off. of Cnty. Prosecutor); Pat Haley (assoc. w. the Off. of Cnty. Clerk); James Sinn, John Daugherty, Kira Moore, Stella Bruce, Donald Fowler, &Alicia Chesterfield (assoc. w. the Off. of Monroe Cnty. Juror); Randy Williamson (assoc. w. the Off. of Monroe Cnty. Sheriff); Jeffrey Modisett (assoc. w. the Off. of Ind. Att. Gen.); Andy Stephenson, Paul Norris, Jr., Ind. Univ. Trustees, Mike Patton & Others unknown by name (assoc. w. Ind. Univ. Police Dept.); Gary Gibson (assoc. w. the Indpls. Commission of Motor Vehicles) & Jeff Byrd (associated with the Indianapolis Bureau of Motor Veh. Titles); Dave Martin & Others unknown by name (assoc. w. the Bloomington BMV Br.); Nancy Carlstedt (assoc. w. Blgtn. Hosp.); & Bonding Agents and Insurers, and others, unknown by name, Defendants./

STATE COURT SECTION 1983, ETC. COMPLAINT AGAINST CONSPIRACY VIOLATING CIVIL RIGHTS UNDER COLOR OF LAW

Kindly respond to each allegation pursuant to the rules of pleading set forth in the Ind. Rules of Trial Procedure, Rule 7, et seq.

CLAIMS

1. At all relevant times Defendants were citizens of Indiana.

2. The acts or omissions hereinafter complained of transpired predominately in Monroe & Marion Counties, Indiana.

3. Relative to the acts and omissions hereinafter alleged as damaging to Plaintiff, Defendants are, in combinations of two or

more, co-conspirators in alliance with each other, jointly operating for furtherance of common agendas in a continuing conspiracy of constitutional dimension reaching to other victims beyond Plaintiff.

4. Defendants have aligned against Plaintiff to coerce and punish her for not being a member of the Social Security System of Benefits and Old-Age Insurance benefits.

5. Before Plaintiff began suing (on January 2, 1998) against the conduct of Defendants, Bloomington and Indianapolis Defendants refused Plaintiff's tendering of her cash excise tax payment of 48.17 and standard BMV motor vehicle title processing services of her papers 5 times from November 27, 1996 though Plaintiff's last unsuccessful attempt on December 4, 1997 upon the excuse that a social security account number was mandatory.

6. Defendants have no state of Indiana statutory requirement on which they can rely "in existence and operating" before January 1, 1975 (necessary to the "grandfathered-in" aspect under relevant federal law), mandating verification of the identity of an individual by compelling disclosure of the "social security account number" as a prerequisite for private, motor vehicle certificate-of-title processing or issuance of a private operators license.

7. Defendants' conduct, absent a timely showing of federal law requiring every citizen to join the Social Security System of Benefits and Old-Age Insurance (irrespective of pretext language providing an excuse for social security number demands under color of law), was, and continues to be, proscribed in the Indiana Code 4-1-8-1(a)(b)(1)(2) (as a result of 1978 P.L. 8 § 3 & 14 other sections of subsequent public laws) until such time as there exists "federal requirements" compelling bureau of motor vehicles applicants to provide social security numbers "against their will."

8. Defendants' conduct at all relevant times has been proscribed by Indiana Code 4-1-8-5 (1978 P.L. 8 § 3) which prohibits the infliction of penalties (in any manner including by the loss, or threat of loss of service, or refusal to issue any license or permit) by a state agency upon an individual's failure to provide a social security number.

9. Defendants' conduct resulted in Plaintiff being deprived of the required license plate for her car from November 27, 1996, through the present date.

10. Plaintiff sustained serious bodily injuries including numerous broken bones on December 21, 1996 while lawfully using a motor scooter which required no license plate.

11. Defendants Nancy Carlstedt and others assigned a Social Security System number to Plaintiff on or about December 21, 1996 and have maintained it for improper purposes in spite of Plaintiff's production of money orders for full payment of motor scooter injury related hospital bills and repeated oral and written requests to correct the false and misleading social security number (and life-threatening medical record) entries.

12. Plaintiff sustained lesser injuries and incurred repeated danger from malicious tampering (including the brakes and accelerator tampering incident), and otherwise as a consequence of use of the aforesaid motor scooter on numerous occasions in lieu of her non-plated car.

13. On January 7, 1998 Plaintiff sustained serious slip and fall injuries (including broken bones, etc.) as a result of the necessity of going by foot to the grocery store on icy surfaces which would not have been crossed by foot, but for the license plate-related disability Defendants continue to impose upon Plaintiff.

14. Into the present month of July, 2000 Plaintiff continues to sustained lesser bodily injuries as a result of the necessity of walking and transporting necessary things and transversing areas she would not otherwise cross without the use of her car, such as tripping on a high curb shortly after getting out of public transportation and injuring both kneecaps and a previously broken wrist.

15. Defendants have aligned against Plaintiff to deter, obstruct or silence her threatened exposure of long-standing violations of the public trust and state constitution involving conversion of huge sums of penal fines (under color of law from minor statute violations known as "infractions" prosecuted in the name of the "state of Indiana" absent both criminal and civil constitutional and statutory authority) into the General Fund (or to the benefit of other "special entities" or various executive branch favored "programs"), when such sums are "inviolately" required to be deposited into the Common School Fund (absent adequate amendments of the Indiana Constitution at Article 7, section 18, and Article 8, sections 2, 3 and 7).

16. Defendant O'Bannon, by his own personal handiwork in the General Assembly authored or otherwise caused Senate Bills

300, 323, and 430 (to revise the Indiana Code as it relates to penal offenses, to establish procedures for enforcement, etc. of "infractions," & to re-classify numerous criminal statutes governing motor and recreational vehicles as "infractions") to be published and enforced as bona fide public laws, in 1978 and thereafter carrying his scehme forward with others in contravention of Defendants['] lawful duties while occcupying govern-mental offices, and conspiring against every person whose well-being is harmed by the prevelance of the poor level of public education and against Plaintiff and similarly situated persons who find themselves accused of minor statutory crimes.

7. Defendant O'Bannon's "infraction" scheme, is principally a specious name-changing trick and crime against the public trust enacted as a means to divert money (constitutionally required to be perpetually deposited into the Common School Fund as the principal never to be withdrawn with the interest accruing thereon used exclusively for the state constitution's educational trust) into the General Fund where Defendants under color of law can collect and spend otherwise untouchable monies proscribed by law from their hands and political domain.

18. Defendant O'Bannon's scheme to fatten the General Fund, provides that "infractions" are "not crimes," and "not offenses" as a result of having been legislativelyremoved from prior lawful statutory designations as felonies or misdemeanor causes of public prosecution.

19. Defendants['] cooperative "infractions" scheme failed to amend the **Indiana Constitution at Article 7, § 18** where "criminal prosecutions" are identified as those undertaken "in the name, and under the authority of," "The State of Indiana."

20. Defendants['] "infractions" scheme failed to amend the Indiana Constitution to provide enlargement and endowment of "The State of Indiana" of citizen type civil-rights sufficient to use the citizens' civil process courts (as opposed to the criminal process courts) or to use the lower, citizen versus citizen evidence standard of "preponderance of the evidence" (as opposed to the governmental, State of Indiana versus citizen criminal conviction standard of "beyond a reasonable doubt").

21. Defendants['] fine-only "infractions" civil procedural standards scheme, has no provision for any criminal procedure and has eliminated the requirement of advising "infraction" defendants of their constitutional safeguards.

22. Defendants have had notice since 1982 of the relevant

Court of Appeals decision (**Wirgau v. State, 443 N.E.2d 327, Ind. App. (1982)**) reviewing Defendants "infraction" scheme by publication of their judicial branch observation that "in Indiana there are no common law crimes"... "all crimes are statutory and enumerated by the legislature," thus proscribing "the state of Indiana" from undertaking public prosecutions of alleged "infractors" including Plaintiff.

23. Defendants by numerous positive acts over a long time and continuing to the present day, have willfully undertaken direct conversion criminal conduct under color of law to their own political agenda and benefit and enjoyment to defraud Common School Trust Fund and its education consumers of monies constitutionally required and accruing from the governmentally-imposed "infraction" punishments, and have willfully aided and abetted each other in keeping property (money penalties and interest accruing thereon) from the rightful owner (the Common School Fund), by unauthorized assumption and exercise of the rights of ownership (to the exclusion of the Common School Fund's "perpetual," "inviolate" rights) over all penal monies accruing from "infraction" prosecutions under the designation of "the state of Indiana."

24. Defendants and others by defrauding the backbone of the state educational funding system (set-up as a public trust fund in the state's highest, fundamental law), have burdened and harmed Plaintiff with jury pool persons far more lacking in basic educational skills and ignorant about constitutional dispute-resolution processes and their political duties than the peasants of 1215 who made the Magna Carta.

25. Defendant O'Bannon, declares and promotes himself as the "the educational governor" in testimony of his confidence in the ignorance of the common school educated people and in bold disrespect toward the state constitution, and "the people in whom all power resides."

26. November 24, 1997, in commission of a felony (under provisions of the Indiana Code sections 9-18-2-29, 9-13-2-1, 9-1-2-43, 9-22-1-2, 9-22-1-1, 35-50-3-2 identifying an underlying "bad stop" resulting from the statutorily inadequate and criminally unlawful status of complainant univ-ersity corporate cops), Defendants Stephenson and others targeted Plaintiff as a motorist traveling on a public street for participation in Defendants' prosecutorial "infraction" diversion "program" as practiced in Monroe County (and corruptly flowing from the

multi-million dollar "infraction" conversion scheme of Defendant O'Bannon and others), upon their observation that Plaintiff has "no license registration plate" on her car.

27. Defendants Stephenson and other, arrested and defamed Plaintiff at approximately 10:30 pm on November 24, 1997, seizing and impounding her vehicle despite her explanation and display of her "in-good-standing" operators license, the car bill of sale, the "signed-over" title, proof of insurance, a tape recorder, and copies of relevant state law (including **Fields v. State, (App. 1978), 382 N.E.2d 972** (prohibiting police officers from stopping drivers solely for ticketing or seizing improperly registered cars unless, concurrently, an additional offense is being committed, and directing anyone whose rights are violated or their vehicle seized, to sue for damages rather than resist the unlawful action "due to the risks of escalating violence by the police"), transporting Plaintiff in the back of a marked squad car, and requiring her to sign acknowledgement of service of a signed and sealed complaint and sum-mons lawfully commanding her appearance in the Monroe County Courthouse on December 4, 1997 in order to be let out of the squad car in lieu of being taken to the Monroe County Jail forthwith.

28. Defendants Stephenson and others, were not regular members of the Indiana Depart-ment of Corrections, Indiana State Police, the Monroe County Sheriff's Department, nor any city police department, nor was Defendant Stephenson a town marshal or marshal deputy or otherwise an individual of an agency empowered with a lawful "officer" "designated by ordinance of the fiscal body" pursuant to **Public Law 2-1991, § 10** on November 24, 1997 nor on July 17, 1998 when Plaintiff's arrest[s] was undertaken.

29. Defendants Randy Williamson and others, in charge of the Monroe County Jail are only authorized (pursuant to **Indiana Code 10-1-1-18(a)**) to "receive a prisoner arrested by a police employee of the department within the jurisdiction served by the jail, and only then upon certain conditions.

30. On November 24, 1997 as a matter of law, Defendants were not statutorily qualified to stop, arrest, seize/transport Plaintiff or her property, or oppress her with the aforesaid complaint and summons, nor interfere with her otherwise lawful passage on public roads solely upon the cause of no license plate, or otherwise make any threat or demands for money from Plaintiff whatsoever.

31. Upon summonsed appearance in the Monroe County Courthouse on December 4, 1997, Defendant Trulock, attempted to solicit money and responsive plea to the November 24, 1997 complaint from Plaintiff, treating Plaintiff in an intimidating and abusive manner before directing her to leave.

32. Defendants Trulock, Kehr, and Salzmann are employees of the executive branch of govenment employed in a public prosecutor capacity, proscribed by law from exercising the prerrogatives of the judicial branch of government (such as soliciting pleas upon complaints against Plaintiff).

33. Defendant Trulock's aforesaid money solicitation conduct against Plaintiff, sounds in bribery solicitation to the same extent any other executive branch employee or police officer inquir-ing of his target whether he or she would like to dispose of a potentially advere or troubleseome matter for a certain sum likely to be substantially less than "trying to fight city hall," and Defendant Trulock[']s December 4, 1997 aforesaid conduct is proscribed upon the same conflict of interest principle.

34. Defendants knew from the date and content of the federal remand and Plaintiff's immediate January 9, 1998 notice of appeal fillings, that Plaintiff was pursuing the federally suggested "state court appeal" occassioned by and upon the default "infraction" judgment Defendant Haley published *and served by mail* December 18, 1997 in defiance of the civil court process of "default entry" under **General Court Rule 55.**

35. On March 26, 1998 in the absence of summoning Plaintiff to appear for jury trial Defendants Bruce, Sinn Daugherty, Moore, Fowler, Chesterfiefld, Bridges, Stephenson, Kehr and others undertook trial in absentia and defamed Plaintiff by publishing that Plaintiff was found guilty of an "offense," when as a matter of law, no "infraction" is a "crime" or an "offense" and no such prosecution or trial could be held as a matter of law.

36. After Plaintiff made a federal removal and remand issue (January 2, 1998) which potentially threaten exposure of the local multi-million dollar "infraction" diversion scheme, and prior to Defend-ants undertaking the trial in absentia March 26, 1998, Defendants Stephenson, Bridges, Kehr and others under-took to place Plaintiff under illegal monitoring, absent both "just cause" and the proper "application form" for bugging.

37. In defiance of law governing filing papers with a judge or clerk and maintenance of courthouse records, Defendant Todd, not officially assigned to Plaintiff's "infraction" case proceedings,

secreted documents in behalf of other Defendants for the purpose of keeping them separated out of the official case file, away from public inspection, and outside of Defendant Haley statutory control.

38. On December 18, 1997 Defendant Haley and others served default judgment notice on Plaintiff *via the US mails* of the entry that date of an "infraction" conviction with assessment of a fine and the threatened loss of Plaintiff's drivers license if not paid.

39. Defendants Modisett and others, beginning approximately in early January, 1998 undertook to delay and obstruct the normal course of Plaintiff's claim of appeal (against the aforesaid Dec-ember 18, 1997 judgement) in the Indiana Court of Appeal.

40. Defendants, in early May, 1998, under-took to obstruct the normal course of Plaintiff's federal civil rights suit and other redress processes.

41. Defendants Patton and others on July 17 1998 undertook a retaliatory arrest of Plaintiff with hours of Plaintiff's refusal of Defendants' request to rewrite the aforesaid civil rights suit leaving out all of its defendants except maybe the BMV and hospital, holding Plaintiff for mug shots at IU and the County Jail where fingerprinting was also undertaken, and subjecting Plaintiff to threats against her life and harm to her well being during 40 solitary confinement therein without lawful cause.

42. Defendants, between 1:09 pm July 15, 1998 and early September, 1998 undertook to cause the disappearance of several Indianapolis federal civil rights pleadings Plaintiff filed against defendants identified herein.

43. Defendant Haley failed to timely provide Plaintiff with a copy of the case record (then approximate 7 pages) and the Clerk's Record Certificate praceiped with Plaintiff's January 9, 1998 claim of appeal for more than a year and a half until September 22, 1999 and only then with partial success (inaccurate Certificate and an incomplete record of 144 pages) upon the intervention of the Court of Appeals Clerk's Office.

44. Defendants 12-18-1997 & 3-26-1998 state court proceeding were a complete nullity with a purpose to deprive Plaintiff of her liberty and property without due process of law and were proscribed as a matter of law.

45. Defendants have aligned against Plaintiff to deter, interfere with, or obstruct her efforts involving state and federal

petitions for redress of her grievances and punish her.

46. More than a year after Defendant Bridges and others at the jury trial in absentia deprived Plaintiff of her driving license, Defendants at the BMV represent [to] Plaintiff has sued them and will never get her drivers license back.

47. Defendants cooperate with unconstitutional notives to perpetuate local practices under which Defendant Haley expediently sends out her Clerk's Notices to the effect that default judgments have been entered absent statutory due process, causing knowable injury to Plaintiff and others.

48. **Plaintiff's purported conviction of "offense" was and is invalid as a matter of law.**

49. **Defendants have unconstitutional motives and are operating a corrupt enterprise under color of law.**

50. **To date Plaintiff has not lawfully been arraigned by any neutral judge or magistrate of the judicial branch.**

51. **Defendants Bridges and others on March 26, 1998 published an arrest warrant against Plaintiff, ordered monies to be paid, and published against Plaintiff's driving license.**

52. Defendant Bridges and other have no civil, criminal subject matter jurisdiction over such legal proceedings against Plaintiff and no summons compelled Plaintiff's appearance anywhere on March 26, 1998.

53. Plaintiff has a history of being invidiously discriminated against and treated as a politically disenfranchised citizen in apparent consequence of whistle blowing and pro se litigation activities arising upon the democratic republic proposition that government should obey the law and the military authority should be subservient to the civil power.

54. Defendants from January 9, 1998 have and continue to obstruct justice, in effect sending Plaintiff on an novel and burdensome course for court of appeals review or redress with intent to deny equal protection of the laws, or injure Plaintiff and property for lawfully enforcing or attempting to enforce Plaintiff's rights to equal protection.

55. Defendants impeded, hindered, obstructed, defeated in various manners the due course of justice to deny Plaintiff the enjoyment of her lawful rights, privileges and property.

56. On July 17, 1998 Plaintiff was subjected to a retaliatory arrest and publicly handcuffed and hauled away at McDonalds Restaurant, involving 3 squad cars, with Defendant Patton informing Plaintiff "that it wasn't nice to mess with people"

after he had arranged her handcuffing.

57. During the 40 day term of incarceration beginning July 17, 1998 Plaintiff was exhibited publicly in the "community corrections van" on area roads and in area businesses shackled waist to wrists to ankles in such ill-fitting orange jail garments that Plaintiff (not provided with underwear) was in jeopardy of having her pants fall down but for constantly gripping them at the waist to the extent the shackles allowed.

58. As a direct and proximate result of the foregoing acts and omission, Plaintiff and Plaintiff's property was injured.

59. Defendants' conduct was outside official immunities.

60. Defendants acted under color of state law at all times pertinent to this Complaint.

Relief

The infliction of the foregoing injuries, many of which are of an ongoing character and consequence, constitutes a deprivation of the rights and privileges of Plaintiff secured and protected to her by the US Constitution, the laws of the United States, and learned procedural decisions pursuant thereto, and is of a nature so as to warrant the award of compensatory damages, punitive and exemplary damages commensurate with the protracted character and degree of maliciousness or willfulness, and other relief of a declaratory, or remedial nature, plus compensation in the nature "attorney fees and costs," in favor of Plaintiff and against the Defendants, and each of them, jointly and severally, and Plaintiff demands trial by jury.

Tuesday, July 18th, 2000 /s/ _____

Lynn Johnston, Esq., pro se
816 Auto Mall Road, #243
Bloomington, IN 47401
812-339-7862

LAW NOTE: Plaintiff relies on federal civil rights statutes such as "Section 1983" and the acts of Congress (particularly the First Congress, 5th Am. due process, etc.) for redress of grievances and enforcement of rights including the right to civil recovery arising under acts of Congress; other suit-relevant federal "rights" law includes: 42 USC 405 (E) (providing that a membership "account number" with the Social Security System of Benefits and Old-Age Insurance is only "required" to be procured "as a condition of receipt of benefits"); 42 USC 405 (C)(i)(iv)

(v)(ii) (providing that states which did not use the "social security account number for identification under a law or regulation adopted before January 1, 1975" may request it for limited purposes subject to other potentially nullifying sections of relevant law); **Section 7 of Public Law 93-579(a)(1)(2)(A)(b)** [also found as the **Privacy Act of 1974, 5 USC 552 (a) note**] (providing that it is "unlawful for any federal, state or local government agency to deny to any individual any right, benefit, or privilege provided by law because of such individual's refusal to disclose his social security account number" with the only exception being the circumstance in which the system of records purportedly entitled or "requiring" disclosure of social security numbers was "in existence and operating before January 1, 1975 and such disclosure was required under statute or regulation adopted prior to such date to verify the identity of an individual"); **Mondou v New York, N.H. & H. R.R., 223 US 1 (1912); Monroe v Pape, 365 US 167 (1961); Patsy v Board of Regents of the State of Florida, 457 US 496, (1982); Kentucky v Graham, 473 US 159 (1985); Felder v Casey, 487 US 131 (1988); 108 S.CT. 2302 (1988); Hafer v Melo, 502 US 21 (1991); 28 USC 2243, 2251, 2254(a)** (federally guaranteeing entertain-ment of habeas corpus petitions arising upon state imprisonment in violation of federal laws, treaties, or Constitution); **Argersinger v Hamlin, 407 US 25 (1972); The Northwest Ordinance of 1787, 1 Stat. 52 (1787)** brought forth, raised and enshrined as fundamental and organic law by the First Congresses' adoption of it federally guaranteeing the continuance of the rights and liberties therein [(at **part (a), Art. II, clause 1** providing that "[t]he inhabitants of the said territory, shall always be entitled to the benefits of the writ of habeas corpus, and of the trial by jury..., and of judicial proceedings according to the course of the common law" with other parts "forever" guaranteeing the regional inhabitants (Indiana included), a republican form of government]; and the federally embraced **Great Charter of English Liberties, Magna Carta, 1297** (in part [c.1 / C. 29 Sec. XXIX] guaranteeing that "[n]o freeman shall be taken or imprisoned, or be disseised of his Freehold, or Liberties, or free Customs, or be outlawed, or exiled, or any other wise destroyed; nor will We not pass upon him or 'condemn him,' but by lawful judgment of his Peers, or by the Law of the Land. We will sell to no man, we will not deny or defer to any man either Justice or Right").

Plaintiff also notes the relevance of the following state laws and learned decisions: Indiana Codes 4-1-8-1(b)(1) ("[t]he bureau of motor vehicles may, notwithstanding this chapter, require the following: That an individual include the individual's Social Security number in an appli-cation for an official certificate of title for any vehicle required to be titled under IC 9-17"); IC 4-1-8-5 ("No individual shall be penalized in any manner, such as by the loss or threat of loss of services or assistance or by the denial or refusal to issue an license or permit, by a state agency for his refusal in accordance with the provisions of section 2(a)2(B) [IC 4-1-8-2(B) (governing "any form, application or other writing prepared by or issued under the authority of any state agency" purportedly requiring that a social security number be provided)] of this chapter to provide his social security number to the state agency. [IC 4-1-8-5, as added by Acts 1978, P.L. 8, §3.]).

INDIANA CONSTITUTION 1851

Preamble: *TO THE END*, that justice be established, public order maintained, and liberty perpetuated: *WE*, the People of the *State of Indiana*, grateful to *ALMIGHTY GOD* for the free exercise of the right to choose our own form of government, do ordain this *Constitution*.

Article 1, *Bill of Rights*.

§1 **Inherent and inalienable rights**

WE DECLARE, That all people are created equal; that they are endowed by their CREATOR with certain inalienable rights; that among these are life, liberty, and the pursuit of happiness; that all power is inherent in the people; and that all free governments are, and of right ought to be, founded on their authority, and instituted for their peace, safety, and well-being. For the advancement of these ends, the people have, at all time, an indefeasible right to alter and reform their government.

§2 **Natural right to worship**

§3 **Freedom of religious opinions and rights of conscience**

§9 **Right to free thought, speech, writing, and printing; abuse or right**

No law shall be passed, restraining the free interchange of thought and opinion, or restricting the right to speak, write, or print, freely, on any subject whatever: but for the abuse of that right, every person shall be responsible.

§10 Truth in prosecutions for libel

In all prosecutions for libel, the truth of the matter alleged to be libelous, may be given in justification.

§11 Unreasonable search or seizure; warrant

The right of the people to be secure in their person, houses, papers, and effects, against unreasonable search or seizure, shall not be violated; and no warrant shall issue, but upon probable cause, supported by oath or affirmation, and particularly describing the place to be searched, and the person or thing to be seized.

§12 Courts open; remedy by due course of law; administration of justice

All courts shall be open; and every person, for injury done to him in his person, property, or reputation, shall have remedy by due course of law. Justice shall be administered freely, *and without purchase*; completely, and without denial; speedily, and without delay.

§13 Rights of accused in criminal prosecutions

(a) In all criminal prosecutions, the accused shall have the right to a public trial, by an impartial jury, in the county in which *the offense* shall have been committed; to be heard by himself and counsel; to demand the nature and cause of the accusation against him, and to have a copy thereof; to meet the witnesses fact to fact, and to have compulsory process for obtaining witnesses in his favor.

(b) Victims of crime, as defined by law, shall have the right to be treated with fairness, dignity, and respect through the criminal justice process; and, as defined by law, to be informed of and present during public hearings and to confer with the prosecution, to the extent that exercising these rights does not infringe upon the constitutional rights of the accused.

§14 Double jeopardy and self-incrimination

No person shall be put in jeopardy twice for the same offense. No person, in any criminal prosecution, shall be compelled to testify against himself.

§15 Persons arrested or confined; treatment

No person arrested, or confined in jail, shall be treated with unnecessary rigor.

§16 Excessive bail or fines and cruel or unusual punishment

Excessive bail shall not be required. Excessive fines shall not be imposed. Cruel and unusual punishments shall not be inflicted. All penalties shall be proportioned to the nature of the offense.

§17 **Right to bail and unbailable offenses**

Offenses, other than murder or treason, shall be bailable by sufficient sureties. Murder or treason shall not be bailable, when the proof is evident, or the presumption strong.

§18 **Penal code founded on reformation**

The penal code shall be founded on the principles of reformation, and not of vindictive justice.

§19 **Right of jury to determine law and facts in criminal cases**

In all criminal cases whatever, the jury shall have the right to determine the law and the facts.

§20 **Trial by jury in civil cases**

In all civil cases, the right of trial by jury shall remain inviolate.

§21 **Right to compensation for services and property**

No person's particular services shall be demanded, without just compensation. No person's property shall be taken by law, without just compensation; nor, except in case of the State, without such compensation first assessed and tendered.

§22 **Privileges of debtor; imprisonment for debt**

The privilege of the debtor to enjoy the necessary comforts of like, shall be recognized by wholesome laws, exempting a reasonable amount of property from seizure or sale, for the payment of any debt or liability hereafter contracted; and there shall be no imprisonment for debt, except in case of fraud.

§23 **Equal privileges**

§24 **Ex post facto laws and impairing contracts**

§25 **Effect of laws**

§26 **Suspension of operation of law**

The operation of the laws shall never be suspended except by the authority of the General Assembly.

§27 **Suspension of habeas corpus; exception**

The privilege of the writ of *habeas corpus* shall not be suspended, except in case of rebellion or invasion; and then, only if the public safety demand it.

§28 **Treason against state; definition**

Treason against the State shall consist only in levying war against it, and in giving aid and comfort to its enemies.

§29 **Treason against state; proof**

No person shall be convicted of treason, except on the testimony of two witnesses to the same over act, or upon his confession in open court.

§30 **Conviction; effect**

No conviction shall work corruption of blood, or forfeiture of estate.

§31 Right to assemble, to instruction, and to petition

No law shall restrain any of the inhabitants of the State from assembling together in a peaceable man-ner, to consult for their common good; nor from instructing their representatives; nor from applying to the General Assembly for redress of grievances.

§32 Bearing arms

The people shall have a right to bear arms, for the defense of themselves and the State.

§33 Military subordinate to civil power

The military shall be kept in strict subordination to the civil power.

§36 Freedom of emigration

Emigration from the State shall not be prohibited.

Article 3, *Distribution of Powers.*

§ 1 Three separate departments: The powers of the Government are divided into three separate departments; the Legislative, the Executive including the Administrative, and the Judicial: and *no person, charged with official duties under one of these departments, shall exercise any of the functions of another,* except as in this Constitution expressly provided.

Article 4, *Legislative.*

§ 23 General and uniform laws: In all the cases enumerated in the proceeding section, and in all other cases where a general law can be made applicable, all laws shall be general, and of uniform operation throughout the State.

§ 24 The right to sue the state: Provisions may be made, by general law, for bringing suit against the State; but no special law authorizing such suit to be brought, or making compensation to any person claiming damages against the State, shall ever be passed.

Article 5, *Executive*

§ 16 Laws faithfully executed: The Governor shall take care that the laws are faithfully executed.

Article 6, *Administrative*

§ 8. State, county, township officers; impeachment and removal: All State, county, and town officers, may be impeachment, or removed from office, in such manner as may be prescribed by law.

Article 7, *Judicial*

§ 1 Judicial power: The judicial power of the State shall be vested in one Supreme Court, on Court of Appeals, and such other courts as the General Assembly may establish.

§ 7 Judicial circuits: The State shall, from time to time, be divided into judicial circuits; and a Judge for each circuit shall be elected by the voters thereof. He shall reside within the circuit and shall have been duly admitted to practice law by the Supreme Court of Indiana; he shall hold his office for the term of six years, *if he so long behaves well.*

§ 8 Circuit courts; *The Circuit Courts shall have such civil and criminal jurisdiction as may be prescribed by law.*

§ 13 Removal of circuit court judges and prosecuting attorneys: Removal of Circuit Court Judges and Pro-secuting Attorneys. *Any Judge of the Circuit Court or Prosecuting Attorney, who shall have been convicted of corruption or other high crime, may, on information in the name of the State, be removed* from office by the Supreme Court, or in such other manner as may be prescribed by law.

§ 18 Criminal prosecutions: Criminal Prosecutions. All criminal prosecutions shall be carried on in the name, and by the authority of the state; and the style of all process shall be: "The State of Indiana."

Article 8, *Education*

§ 2 Common school fund: The Common School fund shall consist of....the moneys...from the fines assessed for breaches of the penal laws of the State; and from all forfeitures which may accrue....

§ 3 The principal of the Common School fund shall remain a perpetual fund, which may be increase, but shall never be diminished; and the income thereof shall be inviolably appropriated to the support of the Common Schools, and to no other purpose whatever.

§ 7 All trust funds, held by the State, shall remain inviolate, and be faithfully and exclusively applied to the purposes for which the trust was created.

Article 10, *Finance*

§ 3 No money shall be drawn from the Treasury, but in pursuance of appropriations made by law.

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF INDIANA
INDIANAPOLIS DIVISION
Removal Petition *In Re*
Criminal Case No. 53CO5 9711 IF 07836, Monroe County Court

State of Indiana, County of	)	
Monroe Officer Andy	)	
Stephenson Indiana University	)	**Case No. IP98-0004-C-m/s**
Police Department,	)	
Plaintiff-Respondent,	)	
v.	)	
Lynn D. Johnston,	)	
Defendant-Petitioner.	)	

TO: EACH ENTITY IDENTIFIED ON PAGES 2 THROUGH 4 OF THIS ORDER

ORDER TO SHOW CAUSE

At a session of the US District Court on the ___day of _____, 2000 upon consideration of Defendant-Petitioner's pleadings and a finding of adequate notice and distribution thereof recorded, The Honorable Larry J. McKinney Presiding:

IT IS ORDERED:

You show cause at the evidentiary hearing in this matter to be held on December__ , 2000 at __ o'clock a.m. / p.m. why the above-entitled removal cause should not be expanded by the inclusion of adverse parties to Defendant-Petitioner Miss Johnston's several civil rights vindication petitions filed from Jan. 2, 1998 through July 18, 2000, and why you should not be subject to such dispositions as justice shall require under the authority of 28 USC 1446(c)(5).

/s/ _____
THE HONORABLE LARRY J. McKINNEY,
JUDGE UNITED STATES DISTRICT COURT
105 US Courthouse, 46 E. Ohio Street,
Indianapolis, Indiana 46204

Monroe County Clerk
(2 copies) RE: Civil Rights Case # 53 CO4 007
CP 01040 & Criminal Infraction # 53
CO5 9711 IF 07836
P.O. Box 547
Bloomington, IN 47402-0547

Governor Frank O'Bannon
206 State House
Indianapolis, IN 46204

Monroe County Court
Justice Building
301 N. College, P.O. Box 547
Bloomington, IN 47402
Pat Haley, Chief Executive Officer

Douglas R. Bridges
Office of Circuit Judge
Justice Bld., 301 N. College
Bloomington, IN 47401

Mike Patton
8566 W. Hedrick
Gosport, IN 47433

Lilia Judson and Ms. Blue
State Court Administration, Ste. 1080
115 W. Washington, South Tower
Indianapolis, IN 46204

Jeff Byrd, BMV Titles
100 N. Senate
Indianapolis, IN 46204

Chief Justice Randall T. Shepard
Indiana Supreme Court
State House Room 217
Indianapolis, IN 46204

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402 W. Washington (for Def. O'Bannon)
Indianapolis, IN 46204

Priscilla Keith, Deputy Att. Gen.
Gov't Center South 5th Floor
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Bloomington, IN 47401

John Laramore
Gov't Center South 5th Floor
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Nancy Carlstedt
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Gary Gibson
Commission of Motor Vehicles
100 N. Senate
Indianapolis, IN 46204

Andrew Hedges
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Jeffrey Modisett
Indiana Attorney General Office
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Indianapolis, IN 46204

Deputy Prosecutor Myrna Love
Director of Infractions Diversion Program
301 N. College
Bloomington, IN 47401

Melissa B. Starry
Office of Judge Bridges
Justice Bld., 301 N. College
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Bloomington, IN 47408

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Barnes & Thornburg
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Indianapolis, IN 46204

Att. Michael L. Carmin
Andrews, Harrell, Mann, Carmin & Coyne, P.C.
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P.O. Box 2639
Bloomington, IN 47402-2639

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210 E. Southern Dr.
Bloomington, IN 47401

Stella Bruce
6315 S. Shields Ridge
Bloomington, IN 4740

Randy Williamson
Monroe County Sheriff Office
Justice Bld., 301 N. College
Bloomington, IN 47401

David L. Welch
Office of Circuit Judge
Justice Bld., 301 N. College
Bloomington, IN 47401

Andy Stephenson
IU Dept. of Police
801 N. Jordan
Residence Hall Adm. Bld.
Bloomington, IN 47405

Marc R. Kellams
Office of Circuit Judge
Justice Bld., 301 N. College
Bloomington, IN 47401

Paul Norris, Jr., IU Dept. of Police
801 N. Jordan
Residence Hall Adm. Bld.
Bloomington, IN 47405

Donald Fowler
6315 S. Shields Ridge Rd.
Bloomington, IN 47401

Indiana University Police Department
801 N. Jordan
Bloomington, IN 47405
Chief Executive Officer Paul Norris, Jr.

Kira Moore
1420 W. 13th St.
Bloomington, IN 47404

Indiana University Trustees
Room 005 Mezzanine
IU Union
Bloomington, IN 47405

Jim Trulock
Office of County Prosecutor
Justice Bld., 301 N. College
Bloomington, IN 47401

FILED

JUL 18 200

IN THE Monroe Circuit COURT

Lynn Johnston
(Caption) Plaintiff,
vs
Frank O'Bannon, et al
Defendants

) Case Number: 53C4CCC7CP01040
) (To be supplied by Clerk when case is filed.)

APPEARANCE BY ATTORNEY IN CIVIL CASE

Party Classification: Initiating ✓ Responding ___ Intervening ___

1. The undersigned attorney and all attorneys listed on this form now appear in this case for the following party member(s): Lynn Johnston for Plaintiff pro se

2. Applicable attorney information for service as required by Trial Rule 5(B)(2) and for case information as required by Trial Rules 3.1 and 77(B) is as follows

Name: Lynn Johnston — Atty Number: N/A
Address: 816 Auto Mall Road, Suit 243, Bloomington, IN 47401 — Phone: 812-339-7862
FAX: N/A
Computer Address: N/A

[List on continuation page the additional attorneys appearing for above party member(s)]

3. There are other party members. Yes ___ No ✓ *(If yes, list on continuation page.)*

4. *If first initiating party filing this case,* the Clerk is requested to assign this case the following Case Type under Administrative Rule 8(b)(3): CP

5. I will accept service by FAX at the above noted number Yes ___ No ✓

6. This case involves support issues. Yes ___ No ✓ *(If yes, supply social security numbers for all family members on continuation page.)*

7. There are related cases: Yes ✓ No ___ *(If yes, list on continuation page.)*
(under Rule 3.1)

8. This form has been served on all other parties. Certificate of Service is attached: Yes ___ No ✓ with the Complaint and Summons

9. Additional information required by local rule N/A

Attorney-at-Law
Attorney information shown above

Appearance Format for Use by Attorneys in Civil Cases; 4/1/95

APPEARANCE FORMAT–CONTINUATION PAGE (Civil Case for Use by Attorney)

Case Number: _____

First Listed Party Member: _____

Continuation of Item 2 (Attorney information for party member, as applicable):

Name: _____ Atty Number: _____
Address: _____ Phone: _____
_____ FAX: _____
_____ Computer Address: _____

Name: _____ Atty Number: _____
Address: _____ Phone: _____
_____ FAX: _____
_____ Computer Address: _____

Name: _____ Atty Number: _____
Address: _____ Phone: _____
_____ FAX: _____
_____ Computer Address: _____

Continuation of Item 3 (Other party members not represented by this attorney) _____
_____

Continuation of Item 6 (Social Security numbers of all family members in cases involving support):

Name: _____ SS # _____ Name: _____ SS# _____
Name: _____ SS # _____ Name: _____ SS# _____
Name: _____ SS # _____ Name: _____ SS# _____
Name: _____ SS # _____ Name: _____ SS# _____

(Interlocutory Appeal) In re Lynn D. Johnston v State of Indiana US Sup. Ct # 99-1696
Continuation of Item 7 (Caption and case number of related cases):
(Information Appeal) Lynn D. Johnston v State of Ind. Cause # 53A01-9909-CR-325, Tr. denied.
(Information Appeal) Caption State of Ind. V Lynn Johnston Case Number 53C05 9711 IF 07836
(Information Appeal) Caption Lynn D. Johnston v Monroe County Court Case Number IP98-0014-C-M/S
(Civil Rights Not being Complied) Caption Lynn Johnston v The Bureau of Motor Vehicles Commission et al Case Number IP 98 0621-C-H/G
(Civil Rights Not being Complied) Caption Lynn D. Johnston v County Jail Commission et al (Sheriff) Case Number IP 98 1112-C-T/G
(Civil Rights Appeal) Lynn Johnston v Hon. David F. Hamilton 98-3519 98-3682 (7th Cir. The Bureau of Motor

Authority: Pursuant to Trial Rule 3.1, this form shall be filed at the time an action is commenced or when a party first initially appears. In emergencies, the requested information shall be supplied when it becomes available. Parties shall advise the court (counties) of a change in information previously provided to the court. This format is approved by the Division of State Court Administration.

US Sup. Ct # 99-1294

Use additional continuation pages if needed.

STATE OF INDIANA
COUNTY OF MONROE

JURY

IN THE MONROE CIRCUIT COURT)

) ss: TRIAL

CASE NO. 53 CO4 0007 CP 01040)

DEMANDED

Lynn Johnston, Plaintiff,

vs

Frank O'Bannon, et al, Defendants.

Motion to Strike Attorney Appearances

Relative to Attorney Steger: Plaintiff submits the following: 1. On July 24, 2000 Monroe County Attorney Steger mailed Plaintiff his formal appearance as counsel for defendants Haley, Starry, Williamson, Bruce, Chesterfield, Daugherty, Fowler, Moore and Sinn, representing by his signature and an official-looking clerk's file-stamp of July 24th that his "Appearance" and related "Petition for Extension of Time" were proper and genuine; 2. The CCS demonstrates at July 27, 2000 that defendant Sinn was not even served the Complaint and Summons until two days after he supposedly contracted with Attorney Steger for representation, and defendants Moore (who has phoned Plaintiff twice) and Bruce are "unknown" at the service addresses as recorded July 27th; 3. Through August 8, 2000 Plaintiff has no evidence that the required service of process under **Indiana General Court Rule 4** has been undertaken and recorded by the Monroe County Clerk's Office relative to the several other defendants Attorney Steger claims to represent; 4. Attorney Steger has been involved against Plaintiff's interest in excess of 2 years and is personally privy to many of the pleadings cited in the "related cases" section of Plaintiff's Appearance Form. 5. Among the 9 defendants Attorney Steger claims to represent, there are 4 sets of conflict of interests among them supporting various counter-suits or cross claims, making it

unethical for any attorney to represent said defendants concurrently; 6. No evidence has been provided to Plaintiff that Attorney Steger has withdrawn his representation from said clients, nor has Plaintiff received notice of the withdrawal of his motion; & 7. Attorney Steger's claim of attorney-client relationship, if in fact, he has actually had the offer of his services accepted by said group of defendants, raises circumstances in violation of the Rules of Professional Conduct (see Rules 1.2, 1.7, 3.1, 3.3, & 8.4).

Therefore Plaintiff suggests that Attorney Steger's claimed representation of said 9 defendants has been for improper purposes and never was genuine and that he will be unable to demonstrate necessary facts to prove a bona fide attorney-client relationship as claimed, should an evidentiary hearing become necessary. Additionally, it should be noted that it is likely that Attorney Steger will be deposed or otherwise called upon as a hostile witness in due course, a fact that he should have realized given the circumstances, making him obliged to decline representation of all 9 of said defendants he appears for. Plaintiff moves for the striking of Attorney Steger's Appearance for all 9 defendants, namely Haley, Starry, Williamson, Bruce, Chesterfield, Daugherty, Fowler, Moore and Sinn.

Relative to Attorney Kelley: Plaintiff submits the following facts: 1. On August 7, 2000 according to the postmark on the envelope Attorney Kelley mailed Plaintiff his "Appearance" and "Motion for and Extension of Time in which to Answer the Complaint" with his proposed "Order" for defendant Mann's signature with the related Certificate of Service, attesting by his personal signature that service was affected by mail on August 4, 2000, contrary to apparent fact and 3 days prior to the August 7, 2000 official-looking clerk's file-stamping on 2 of his 9 page ! 2. Attorney Kelly claims to represent the same 9 defendants as Attorney Steger above; 3. With the exception of defendant Sinn for whom service of process was made on July 26, 2000 and who conceivably could have contracted with Attorney Kelly for representation in this matter, the CCS record provided to Plaintiff suggests that none of the other 8 defendants have been served and thus would NOT be motivated to hire Attorney

Kelley for representation, as least as long as service of process can be obstructed under color of law, or otherwise "ducked;" 4. Attorney Kelley faces the same obstacles and perils in representation of this group of 9 defendants as does Attorney Steger except for Attorney Kelley not being a planned target of discovery or testimony.

Therefore Plaintiff suggests that Attorney Kelley's claimed representation of Attorney Steger's 8 defendants (theoretically not including defendant Sinn) has been for improper purposes and is not genuine and he will not be able to demonstrate necessary facts to prove a voluntary, bona fide attorney-client relationship as claimed, should an evidentiary hearing become necessary. Moreover Attorney Kelley, as a officer of the court, would be obliged to assist in the facilitation of court-process, including service of Plaintiff's Complaints and Summonses upon "his clients" if in reality he has had any actual contact with them. Plaintiff acknowledges that Attorney Kelley may innocently have been put in an awkward position upon misleading pretenses, but nonetheless, Plaintiff submits that a genuine attorney-client relationship is not demonstratable, with the possible exception of defendant Sinn, should an evidentiary hearing become necessary, and **Plaintiff moves to strike Attorney Kelley's "Appearance" with respect to such 8 unserved defendants, namely Haley, Starry, Williamson, Bruce, Chesterfield, Daugherty, Fowler and Moore.**

Relative to Attorney Whitlatch: Plaintiff submits the following: 1. On July 28, 2000 according to the postmark, Attorney Whitlatch served his "Appearance" for defendant Carlstedt upon Plaintiff; and 2. As provided to Plaintiff, the CCS records NO return of service upon defendant Carlstedt;

Plaintiff acknowledges that Attorney Whitlatch, with respect to Plaintiff's several other causes for legal action against defendant Carlstedt, was in an attorney-client relationship with defendant, causing Plaintiff's service of many pleadings upon him in that capacity; 3.

Attorney Whitlatch has been and continues to be duty bound under the Code of Professional Conduct, including Rule 8.3 which requires the reporting of any professional misconduct arising upon his path both during his time as a private citizen and during his professional time whether while in the employment of defendant Carlstedt, or otherwise. Plaintiff moves to strike Attorney Whitlatch's "Appearance" as defendant Carlstedt's counsel of choice on the grounds of it being premature, presumptive, and in violation of due process.

Relative to Attorney Carmin: Plaintiff submits the following facts: 1. On July 28, 2000 Attorney Carmin mailed his "Appearance" to Plaintiff representing that he was in attorney-client relationship with defendants IU Trustees, "Norris" and "others unknown by name associated with the IU Police Department;" The CCS shows return of service on defendant IU Trustees on or before July 15, 2000, but not upon Attorney Carmin's other alleged defendant clients; and 3. There is no record known to Plaintiff of returns of service upon Attorney Carmin's other alleged clients.

Therefore meaningful disclosure of their identities demonstrating that said unserved defendants' and defendant Norris' claimed selection of Attorney Carmin was knowingly and voluntarily made with waiver of conflict of interests and counterclaims among them, and is proper and within the bounds of the Code of Professional Conduct; and in light thereof obligations, Plaintiff suggests Attorney Carmin (A) aid in compliance with his duties as an officer of the court and facilitate defendants proper identification and service of court-process, (B) amend his "Appearance," or (B) withdraw his representation of unserved and unidentified defendants forthwith; In the alternative, Plain-tiff moves for Attorney Carmin's "Appearance" with respect to the unserved and unidentified defendants (Norris, and "others unknown by name associated with the IU police department") to be stricken from the record.

Relative to Deputy Att. Gen. Duga: Plaintiff submits the following facts: 1. On July 31, 2000 Deputy Att. Gen. Duga

following facts: **1.** On July 31, 2000 Deputy Att. Gen. Duga mailed his "Appearance" to Plaintiff representing that he was in an attorney-client relationship with 14 defendants, namely O'Bannon, Bridges, Todd, Welch, Mann, Hoff, Kellams, Salzmann, Trulock, Kehr, Modisett, Gibson, Byrd and Martin; **2.** The CCS records returns of service upon only four of said allegedly represented defendants, namely **"O'Bannon, Modisett, Gibson and Byrd; 3.** This particular group of defendants encompasses 6 or 7 sets of potential cross-claim or counter suits among its members who obviously have conflicts of interests; **4.** Deputy Duga, himself, as a result of his prior involvement against Plaintiff and Plaintiff's interests, is a person subject in due course to being deposed and/or called as a hostile witness, which circumstance puts him in conflict of interests with those with whom he claims an attorney-client relationship; and 5. Deputy Duga is bound by the **Code of Professional Conduct** for lawyers as well as prosecutors.

> Therefore Plaintiff suggests that Deputy Duga should withdraw his representation of defendants O'Bannon, Modisett, Gibson and Byrd with the recommendation that they would be well advised to individually secure the very best private counsel available for their civil and /or criminal defenses ad the cases may be; And **Plaintiff moves for Attorney Duga's Appearance" to be stricken from the record with respect to such 10 defendants as have not yet been served their Complaints and Summonses, namely** Bridges, Todd, Welch, Mann, Hoff, Kellams, Salzmann, Trulock, Kehr and Martin;

Upon the foregoing reasons, Plaintiff requests entry of the suggested 4 (or possibly 5) Orders striking attorney appearance by Steger, kelley, Whitlatch, and Duga (and possibly Carmin) and for entry of individually appropriate sanctions against Steger, kelley, Whitlatch, and Duga for vexatious, bad faith conduct, including compensation payments to Plaintiff for so unnecessarily troubling her as well as the court.

Friday August 11, 2000 /s/ _____

Lynn Johnston, Esq., pro se
816 Auto Mall Road, Suite 243
Bloomington, IN 474401
812-339-7862

STATE OF INDIANA
COUNTY OF MONROE

IN THE MONROE CIRCUIT COURT) JURY
) ss: TRIAL
CASE NO. 53 CO4 0007 CP 01040) DEMANDED

Lynn Johnston, Plaintiff,
vs
Frank O'Bannon, et al, Defendants.

Motion to Strike Dep. Att. Gen. Priscilla Keith's "Notice of Representation by Prosecuting Attorney"

Plaintiff submits the following facts: (1) the Chronological Case Summary (CCS) records return of process on defendant Gibson on July 21, 2000 (noting that the illegible signature is subject to correction with printing being required by the post office); (2) Deputy Att. Gen. Duga (a person of senior status) entered his Appearance as defendant Gibson's counsel on July 31, 2000; (3) Deputy Duga has not yet withdrawn his representation of Gibson nor Gibson's co-defendants including Salzmann (unserved so far as Plaintiff is aware); and (4) Currently pending deputy Duga has a motion in such representative capacity.

On August 4, 2000 according to the postmark and contrary to the Certificate of Service mailing representation made by deputy Keith, Plaintiff was mailed "Notice of Representation by Prosecuting Attorney." Plaintiff objects to the false and misleading documentation of the doing of a required time-sensitive act, 5 days prior to when such act was actually done. Moreover, insofar as it is represented that defendant Gibson will be represented in this matter by the Monroe County Prosecutor's Office (which is still under the control of co-defendant Salzmann and the place of employment of other co-defendants each of whom is in a conflict of interest position with respect to 1 or 2 potential counterclaims defendant Gibson is entitled to pursue), due process necessitates the filing and service of a withdrawal of deputy Duga's otherwise continuing "Appearance." Plaintiff submits

that no one in the Monroe County Prosecutor's Office is ethically permitted under the **Code of Professional Responsibility** to provide defendant Gibson with legal representation in Plaintiff's civil rights suit due to defendant Gibson having the right to raise an adverse counterclaim against said officeholder and hi deputies. Deputy Duga certainly knows this, and deputy Keith either knows it or should know it, and is responsible either way.

Further deputy Keith represents that Plaintiff **"seeks relief pursuant to Ind. Cod § 9-24-15 et seq"** which provides for "Issuance of Restricted Driver's License Because of Hardship." **No where in the Complaint or any of Plaintiff's prior petitions for redress of grievances has Plaintiff sought relief pursuant to said citation of deputy Keith.** Moreover, before anyone is qualified to so proceed, they must fit into at least one of the qualifications cited in section one of said law. Plaintiff does not have the requisite factual circumstances and those who received her timely appellate efforts within the BMV know it, and deputy Keith should know it. Based upon deputy Keith's false and misleading claim that Plaintiff's Civil Rights Complaint seeks relief pursuant to her fallacious citational support, she conveniently "finds" that **Ind. Code § 9-24-15-4** allows for **"the bureau"** to appear by the county prosecuting attorney ! A review of the Complaint caption will show that **"the bureau" is NOT listed or served as a civil right defendant.** In the event **"the bureau" a/k/a BMV or Commission thinks it wise to enter** Plaintiff's Complaint as an intervening entity, Plaintiff suggests the proper procedures be followed for so doing; however, Plaintiff submits that its true interests lie elsewhere, perhaps in the placement of a new, more law-abiding commissioner.

Plaintiff objects to deputy Keith's "notice" as a dilatory ruse entered for political distancing and sacrificial-goat designation purposes with bad faith to vex and unduly burden Plaintiff with the necessity of a response, and it should be stricken for cause with sanctions and a compensation Order entered in Plaintiff's interests.

Friday August 11, 2000

/s/_____

Lynn Johnston, Esq., pro se, 816 Auto Mall Rd., Ste. 243,
Bloomington, IN 47401 (phone # 812-339-7862
STATE OF INDIANA

STATE OF INDIANA
COUNTY OF MONROE

IN THE MONROE CIRCUIT COURT) JURY
) ss: TRIAL
CASE NO. 53 CO4 0007 CP 01040) DEMANDED

Lynn Johnston, Plaintiff,
vs
Frank O'Bannon, et al, Defendants.

Notice of Objections to Covert Intervention
in State Case Judicial Branch Process
with
Demand for Officials & Court Officers to Comply
with Due Process Forthwith
or
in the alternative
Notice of Intent to Seek Federal Remedies & Supervision, etc.

Plaintiff submits the following facts: 1. On July 18, 2000 Plaintiff personally appeared and filed the Complaint in the Monroe County Clerks Office relying upon Indiana General Court Rules 4 (governing clerk duties and procedures on service of complaints and summonses) and Rule 77 (governing mandatory clerk duties and procedures for maintenance of sequential record entries), etc.; 2. Plaintiff did NOT provide extra Complaints NOR extra Summonses for unidentified destinations or supernumerary distribution by the Clerks' certified return receipt process; 3. (Relative to Clerks' Return of Service entries July 28, 2000) Service upon two NON-plaintiff-designated entities, "Mendes & Mount, LLP" and "Lilia Judson" are recorded; 4. Plaintiff did NOT authorize such service, NOR is it provided for by Rule 4; 5. Plaintiff was NOT served any petition, motion, or order related to said successful undertaking of process service

(recorded in Chronological Case Summary (CCS)); 6. Courthouse defendants Haley, Starry, Bridges, Todd, etc. are alleged to have previously undertaken covert "dirty hands" acts and omissions against Plaintiff to defeat due process (detailed in the eight "related cases" referenced in Plaintiff's Appearance and Complaint); 7. Said defendants stand so accused upon an abundance of verified evidence attesting to bad faith motives and illegal conduct while remaining uniquely positioned to covertly affect their improper interests against Plaintiff until such time as they are put on administrative leave; 8. Plaintiff is entitled to, and demands service of a copy of the petition or motion and the resultant order causing suit service upon "Mendes & Mount, LLP" and "Lilia Judson." 9. The Complaints and Summonses are NOT being properly processed in the courthouse, NOR recorded in the CCS, NOR has the Clerk Office undertaken required postal remedial procedures for illegibility or delivery date omissions with respect to CCS entries on Gibson, Byrd, IU Trustees, O'Bannon, Modisett, Freeman-Wilson, Mendes & Mount LLP, and Attorney General of the State of Indiana, leaving only 2 (Sinn and Patton of the 29 who should have been easily served) incontestably recorded as served. Plaintiff hereby gives notice of strenuous objection to covert interventions and effective denial of meaningful access to a fit judge for due process enforcement or protective orders, and demands compliance with constitutional principles and standards by all court-process officials, employees, and officers of the courts; In the event of further vexatious, criminal or otherwise improper acts or omissions against Plaintiff's rights or privileges emanating from defendants, be hereby advised that federal remedies including direct supervision of Monroe County Courthouse operations will be sought, and criminal and/or professional complaints will be published.

Friday August 11, 2000

/s/_____

Lynn Johnston, Esq., pro se,
816 Auto Mall Rd., Ste. 243,
Bloomington, IN 47401
(phone # 812-339-7862)

STATE OF INDIANA
COUNTY OF MONROE

IN THE MONROE CIRCUIT COURT)
) ss:
CASE NO. 53 CO4 0007 CP 01040)

JURY TRIAL DEMANDED

Lynn Johnston, Plaintiff,
vs
Frank O'Bannon, et al, Defendants.

Plaintiff's Response Against Motions Extensions of Time

Plaintiff has been mailed motions for extensions of time to file and serve defendants' answers to the Complaint filed July 18, 2000. The Complaint allegations are contained within 9 pages, reasonably alleged and answerable under the Indiana Court Rules, and Attorneys Steger, Whitlatch and Duga are in fact well familiar with Plaintiff's causes of action for over 2 years as a result of the "related cases" identified in Plaintiff's Appearance disclosure. Moreover, they know what they've done, and should have known well before the filing of the instant Complaint what their clients' exposures were. The necessary facts, law, and documents are all reasonably accessible to them or their clients.

Deputy Att. Gen. Duga so motions for defendants O'Bannon, Bridges, Todd, Welch, Mann, Hoff, Kellams, Salzmann, Trulock, Kehr, Gibson, Byrd, and Martin, however while he has entered his "Appearance" for these defendants plus defendant Modisett, Plaintiff is NOT privy to defendants Bridges, Todd, Welch, Mann, Hoff, Kellams, Salzmann, Trulock, Kehr, and Martin, yet having been served the Complaints and Summonses. Duga's only stated excuse for delay is that he needs "time in which to study the Complaint and research and

prepare."

Monroe County Attorney Steger so petitions for defendants Haley, Starry, Williamson, Bruce, Chesterfield, Daughtery, Fowler, Moore, and Sinn, however while he has entered his "Appearance" for these defendants as of July 24, 2000, Plaintiff is NOT privy to these defendants, with the exception of Sinn, having yet been served the Complaints and Summonses. His only stated excuse for delay is that he "has not had time to consult with his clients concerning the facts giving rise to this cause of action."

Attorney Kelley has entered his "Appearance" as of August 7, 2000 for the very same defendants as Attorney Steger above and also so petitions as their lawyer. Kelley's only stated excuse for delay is that "in spite of diligent effort" he has "not been able to accumulate facts and documents necessary to file a good faith answer."

Attorney Whitlatch so motions and has entered his "Appearance" as of July 27, 2000 for defendant Carlstedt (however, Plaintiff is NOT privy to this defendant having yet been served the Complaint and Summons). Whitlatch's only stated excuse is that "they have not been able to accumulate facts and documents necessary to file a good-faith answer."

Only defendants with potential criminal exposure in this matter have misconduct motivation against Plaintiff. Such defendants do have an improper interest in dilatory and vexatious conduct to delay or obstruct the expected progress of the Complaint. It is **also acknowledged that such defendants have a Fifth Amendment privilege against self-incrimination in a criminal proceeding which this is not, but they may easily foresee with a desire to avoid public evidentiary risks flowing from Plaintiff's causes of action.** In consequence, such defendants have a very short window of time in which to enjoy their options. Neither the causes of action, nor the Complaint will cease as a result of further undertakings to provide a showing of an "accidental

demise" or incapacitating harm to Plaintiff.

All motions are pending; although the required, adequate recording of effective Clerk's certified receipt service returns on the Complaints and Summonses upon the Chronological Case Summary (CCS) is being delayed and obstructed with the predictable effect of preventing Plaintiff from timely proceeding with default judgment entries against nearly all of the defendants, in end due process or remedies for its violation will be extended to Plaintiff's interests. Since defendant Haley remains in control of such case processing place, Plaintiff suggests a continuing cooperative bad faith motive underlying this additional due process problem oppressing Plaintiff.

There is no bona fide or legitimate basis for extensions or enlargements of time as presented by any of the above named lawyers, and their motions are improperly brought for purposes other than those cited as cause. Moreover, Plaintiff submits that independent, ethical counsel, not interested in "milking a cash cow" at a loosing client's expense, would have timely sought settlement with Plaintiff and counter sued co-defendants if, or where appropriate. Therefore Plaintiff opposes all four motions for cause, and submits that they should be denied with sanctions compensating Plaintiff for being the target of vexatious, dilatory litigation.

Friday August 11, 2000

/s/_____

Miss Lynn Johnston, Esq., pro se
816 Auto Mall Road, Suite 243
Bloomington, IN 474401
812-339-7862

STATE OF INDIANA
COUNTY OF MONROE

JURY

IN THE MONROE CIRCUIT COURT)
) ss: TRIAL
CASE NO. 53 CO4 0007 CP 01040)
DEMANDED

Lynn Johnston, Plaintiff,
vs
Frank O'Bannon, et al, Defendants.

Motion to Strike
Dep. Att. Gen. Duga's Motion to Dismiss Jeffrey Modisett

Plaintiff submits the following facts: (1) The Chronological Case Summary (CCS) at July 25, 12000 records clerk's certified mail receipt delivery of the Complaint and Summons on July 21, 2000 by William _____; (2) The illegible last name defect is expected to be corrected by standard procedures though the Bloomington Post Office which required only presentation of the original defective return receipt by the Monroe County Clerk; (3) The corrected signature is expected to identify the person who regularly receives such mail in behalf of Jeffrey Modisett.

Standard procedure could have been undertaken to quash the aforesaid service of process on defendant Modisett if there were a legitimate verifiable basis demonstrating it appropriateness. Plaintiff acknowledges the fact that defendant Modisett suddenly resigned from the Office of Attorney General several months ago; however, and to the extent that court-process mail continues to be directed to him, those previously authorized to sign for his mail are either still so authorized, or have a legal duty to refuse service so that the post office can either return it to the sender or re-deliver it to a more appropriate address.

Plaintiff submits that the Indiana Attorney General's Office should be regarded as sophisticated office to be held to the highest competency and ethical standards. If in reality there

been a basis for bringing forth a motion to quash said service on defendant Modisett, deputy Duga would have selected that course of action. He didn't. Instead, ten days later, by mail postmarked July 31, 2000, he served his "Appearance" on behalf of Jeffrey Modisett. Had the standard state-process service on defendant Modisett been quashed, Plaintiff, forthwith would have caused re-issuance and re-service via one of the many other means (such as through the Secretary of State) as provided in Indiana General Court Rule 4. Based upon deputy Duga's legal representation and appearance notice, he has elected to proceed disingenuously with his "Motion to Dismiss Jeffrey Modisett" which attempts to advance a totally meritless, specious theory urging that "the case must be dismissed as to him" because Plaintiff has failed to obtain proper service. Deputy Duga, a seasoned career employee of the office, is responsible for knowledge of state court process under which the Monroe County Clerk's Office acted in the service of Modisett and deputy Duga's low level citation of a federal rules decision involving service of process for federal court, is irrelevant. Moreover, deputy Duga's low level state of Indiana decision, is also irrelevant to the facts (although it would apply if service of process had been insufficient). Additionally, it is a violation of the Rules of Professional Conduct for deputy Duga to file his formal appearance and then undertake advancement of any motion absent knowledge or consent of the client represented. Moreover, as an officer of the court, deputy Duga is under an obligation to assist lawful court process, not delay or obstruct it.

For the foregoing reasons. Plaintiff motions for an ORDER striking the "Motion to Dismiss Jeffrey Modisett" and providing appropriate sanctions against deputy Duga and his client including payment of compensation for vexatiously troubling Plaintiff to respond to such bad faith crap.

Friday August 11, 2000

/s/_____

Lynn Johnston, Esq., pro se
816 Auto Mall Rd., Ste. 243
Bloomington, IN 47401
(phone # 812-339-7862)

FILED
U.S. DISTRICT COURT
INDIANAPOLIS DIVISION
98 AUG 17 PM 2:22

United States District Court
Southern Division Indiana

Civil Rights Case No. IP - 621-H/G

Lynn Johnston, Plaintiff
vs.
The Bureau OF Motor Vehicles Commission, et al. Defendants./

Plaintiff's Notice of Defendants' Retaliatory Punishment and Obstruction of Civil Rights Remedies, with Affidavit in Support and Motion to Hold proceeding in Abeyance

---

C O M E S N O W Plaintiff, incarcerated in the Monroe County Jail since July 16, 1998 as the direct and purposeful consequence of several Defendants' acts and/or omissions. Plaintiff was handcuffed and arrested by IU Defendants less than 48 hours after having politely refused to re-write the civil rights suit leaving out the IU Defendants, the arguments and request therefore having been made by unrepresented co-Defendant tow-truck driver/aka/Mike Patton, representing himself as a friend of IU Defendants (knowing of 1 male cop's 13 or 15 year career, knowing one of the IU Dept. of Police women). After Plaintiff had been placed into the back of the IU squad car, Defendant Mike Patton walked some distance to then and there admonish Plaintiff in the following words: "You shouldn't mess with people." While handcuffed and alone both in and out of the squad car, and while in the presence of co-Defendant arrest-assisting/observing IU cop, and probably with a big, white, dark-haired, women listening from an adjacent passageway who later let herself be seen by Plaintiff, Plaintiff was subjected to police questioning about her civil rights suit, and otherwise. Upon information and belief, Plaintiff alleges that Monroe County Courthouse Defendants have created another altered and misleading docket with omissions, etc., in the underlying minor traffic ticket criminal infraction case for self-serving purposes since plaintiff's

arrest. Plaintiff has not waived the legal issue of no personal jurisdiction over Plaintiff with respect to Defendant Monroe County Judge Douglas Bridges, at no time, form the date of the ticket for "no registration plate" has Plaintiff been read her

rights, or been arraigned by any judge or neutral magistrate or been advised or the availability and right to assistance of counsel for her defense, Contrary to the newly created Docket, it should be 7-17-98 noted that Plaintiff did not voluntarily appear "in person" a"and pro se." but rather in involuntarily in arm and leg shackles uttering NOT a word in a court presided over by Defendant Judge Bridges absent all personal jurisdiction for lack of the issuance of a summons for his March 26, '98 Trial in Absentia, lack of an arraignment prior to the trial, etc. Plaintiff represents that she discharged her duty to appear in the Monroe County Court pursuant to Complaint and Summons on Dec. 4, 1997 and proof thereof, in 2 types has been made a part of the civil rights Exhibits already filed and served. Plaintiff is apparently being held in jail on some theory of civil or criminal contempt for some maximum term of which has not been informed nor has any statutory authority for the apparent contempt charge been provided to Plaintiff. Plaintiff represents that all actions of Defendants Judge and Prosecutor since the filing of the civil rights suit, are in conflict of interests, professionally unethical and constitute and undertaking to both punish Plaintiff and block, and mute, and retroactively gain a margin of personal jurisdiction over Plaintiff for continued adverse effect against the state-court appeal right and directive in the 1-6-98 Federal Remand ORDER of Judge McKinney and are in contempt of said federal order, and constitute furtherance of the conspiracy and racket alleged in the civil rights complaint. Plaintiff incorporated by reference as though copied completely, her Petition of a Writ of Habeas Corpus filed in US District Court, Indianapolis on July 23, 1998 under # IP 98-1012-T/G.

Page 2 of 3 pages

Prior to undertaking the writing of said Habeas Corpus Petition without her reading glasses, and after the expiration of 71 hours since the time of Plaintiff's arrest, by 2 written messages to the County Sheriff holding her in jail, Plaintiff gave Notice & Demand of her illegal detainment, demanding immediate and unconditional release, citing the US Supreme Court case of Argersinger vs Hamlin, to no avail. Plaintiff has been in solitary/segregation for virtually all of the continuing confinement, and in the same one of her 2 garments of clothing for 14 or 15 days, and is subsisting on a diet, that upon information and belief, and in light of federal dietary guideline, is nutritionally inadequate, and unhealthy. Plaintiff has noted

denied, and substandard health[y[sic] and conditions which are worrisome.

Plaintiff Motions to Hold Proceedings in Abeyance for her Civil Rights Case until she is released from jail and for a 10 day period thereafter, for the foregoing and Habeas Corpus Petition reasons and circumstances which Plaintiff represents as creating impossible conditions under which she can't reasonably be expected to effectively or vigorously continue pursuit of her civil right suit remedies, and for such further relief, or time extensions, or the like, as are just and proper which may have become appropriate since he her arrest on July 16,1998, as may be considered prudent for the preversation of evidence which Defendants and those assisting them may have interest in suppressing or destroying.

August 6, 1998 (Friday)

Respectfully Submitted,
/s/

Lynn Johnston , Prisoner
Monroe County Jail,
301 N. College,
Bloomington, 47404
(otherwise 816 Auto Mall Road #243 Bloomington 47401)

Affidavit in Support

I swear under U.S. penalties of perjury that I wrote the foregoing in jail and that to the best of my own knowledge and beliefs, it is true, and I so affirm this 6th Day of August '98 by signing, Lynn Johnston.

page 3 of 3 pages.

[Hereinafter included will be found the referenced July 23, 1998 **Habeas Corpus Petition**, followed by the related filings:
Sept. 3rd, 1998 - **"COUNT 13 NOTICE & DEMAND for Arrest and Incarceration Compensation with AFFIDAVIT of FACTS in SUPPORT"**;
May 7th, 1998 - **"COMPLAINT"** *relief section only* followed by a copy of Petitioner's district court
July 15, 1998 time-stamped pleading in mitigation of Complaint dismissal titled **"PLAINTIFF"S JULY 14th RESPONSE & NOTICE"** otherwise "disappeared" from the district court record.]

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF INDIANA
INDIANAPOLIS DIVISION

FILED
U.S. DISTRICT COURT
98 SEP -3 PM 3:10
SOUTHERN DISTRICT
OF INDIANA
LAURA A. BRIGGS
CLERK

Civil Action No. I P 98-0621C H/G

LYNN JOHNSTON,
Plaintiff,

v

THE BUREAU OF MOTOR VEHICLES COMMISSION, ET AL
Defendants.

COUNT 13 NOTICE & DEMAND FOR ARREST AND INCARCERATION COMPENSATION with AFFIDAVIT of FACTS in SUPPORT

Plaintiff hereby gives NOTICE pursuant to Count 13 Relief in the above entitled civil rights suits, that she has been arrested and incarcerated as a result of, or arising from, or flowing upon the Defendants' acts and omissions complained of, alleged, and referenced in the said Count 13, and therefore DEMANDS compensation as specified in the said Relief related to Count 13 in the amount of $953,000.00 (Nine Hundred and Fifty-Three Thousand Dollars), and provides the attached Affidavit of Facts in Support thereof.

September 3, 1998 /s/_____
Lynn Johnston

AFFIDAVIT of FACTS in SUPPORT

I, Lynn Johnston, in support of the foregoing Notice and Demand for Count 13 arrest and incarceration compensation say: (1) I was arrested and handcuffed at MacDonald's Restaurant on Kirkwood Street, Bloomington, Indiana shortly after 8pm on Thursday July 16, 1998 by Defendant Indiana University

Department of Police Cop Andy Stephenson (with other of the Department participating in the undertaking); (2) I was thereafter transported in a marked squad car to Defendant Indiana University Police Department at 801 N. Jordan, the Residence Hall Administration Building, Bloomington; (3) I was subjected to police questioning and 3 mugshots; (4) I was thereafter transported in the aforesaid squad car to the Monroe County Jail where I was held under the custody of the Monroe County Sheriff; (5) Although I was told by the Sheriff's food trays cell delivery staff, that the new "pop sheet" still had me down as a "hold" with no charge, no bond, no release date, I was released from said jail's confined areas into the visitors lobby shortly after noon on Monday, August 24, 1998; and (6) further I say not.

September 3, 1998 /s/ _____
Lynn Johnston

I declare, certify, verify, and state pursuant to 23 USC 1746 under penalty of perjury under the laws of the United States of America that [the] foregoing is true and correct.

Executed on September 3, 1998 /s/ _____
Lynn Johnston
816 Auto Mall Road, No. 243
Bloomington, IN 474701

FILED
98 MAY -7 PM 3:19

WHEREFORE the Plaintiff, Lynn Johnston, prays judgment against the Defendants, and each of them, jointly and severally in the specified sums by calculation made certain as indicated below:

Count One, relative to: acts and omissions of Bureau of Motor Vehicles Commission & its Agents, -----**$10,000.00 as "refused services" compensatory damages for each of the 5 times Plaintiff requested services** and tried to pay the motor vehicle excise tax, procure a license plate, etc. and was refused; **plus $10.00** as compensation for the late payment fee now also due and owing; **plus $2,000.00** as compensation related to inability to sell or trade Plaintiff's car; **plus $100.00 per day** as compensation for each and every day or part thereof from the first date (November 27, 1996) of refusal of services to Plaintiff and continuing into the future for as long it may take until Plaintiff has a license plate attached to her car with the proviso that in the event of Plaintiff's untimely demise or serious injury related to either transport-ation, foul play, or suspicious circumstances, that said daily payment sums will continue and accrue to the estate of Plaintiff for a period of 40 years and be assessable and payable upon written Notice and Demand from Plaintiff's estate (upon the providing of an Affidavit of incident facts for Count One), plus $550.00 per day as compensation (the approximate daily cost and average gratuity for a limited hired car [with higher fees charged for going out of the county] with driver) for each and every day or part thereof during which Plaintiff suffers the threat of, or actual suspension or revocation of, her Drivers License as a result of circumstances arising upon or flowing from the herein complained of acts and omissions of the Bureau of Motor Vehicle Commission with such daily damage sums to be assessable upon written Notice and Demand supported by Plaintiff's Affidavit of Facts and filed with the Clerk of this Honorable Court, with said compensation in favor of Plaintiff, and against the Defendants, and each of them, jointly and severally;

Count Two, relative to: providing a context (as a result of the acts and omissions of the licensing Defendants in Count One) of prejudicial & coercive

circumstances under which bodily, property & other injuries occur; -----**$71,000.00 as "consequential bodily, property and other compensatory damages"** with said damage sum repeating as the minimum sum compensation for any, and each, and every (unwelcome from Plaintiff's perspective) forthcoming police and/or motorbike incid- ent, or injury occurring and extending through the period during which Plaintiff has no license plate and assignable Certificate of Title for her car, with such repeat sum(s) being summarily assessable upon the filing of a Notice and Demand therefor supported upon an Affidavit of Count Two incident facts by Plaintiff or on behalf of Plaintiff, if Plaintiff is unable to personally execute such documents, with said compensation and relief in favor of Plaintiff and against the Defendants, and each of them, jointly and severally (with any incident in which Plaintiff is aggrieved beyond such minimum sum process as aforesaid, to be addressed through the opening of this Complaint for amendment thereof by the addition of counts, and/or defendants, and new and additional relief without limitation, and without fees or costs upon Plaintiff);

Count Three, relative to: **Social Security System** conspiracy for effecting 100% membership among Bureau of Motor Vehicles Commission, its Agents, and hospital entity, ------**$10,000.00 as the award of "Social Security System membership coercion conspiracy" compensatory damages** in favor of Plaintiff and against the Defendants, and each of them, and each of them;

Count Four, relative to: legal conspiracy for infliction of predictable economic & legal pains and punishments by empowerment of cops, clerks & prosecutors nationwide as a result of Count One, ------**$50,000.00 as the award of "legal conspiracy damages" with said damage sum repeating** upon the filing of a Count Four Notice and Demand therefor, supported by an Affidavit of facts, as the minimum sum compensation for any, and each, and every, forthcoming police, or court incident nationwide, extending through the time period during which Plaintiff has no license plate and assignable Certificate of Title, and including any such court appearances that occur after such date but which flow from such period, with said compensation damage sum(s) in favor of Plaintiff and against the Defendants, and each of them, jointly and severally (and with any incident in which Plaintiff is aggrieved beyond such minimum sum processes

aforesaid, to be addressed though the opening of this Complaint and amendment thereof by additional counts and defendants without further costs or fees upon Plaintiff);

Count Five, relative to: tax obstruction of Defendant Bureau of Motor Vehicles Commission & its Agents, --------- **the placement of an ORDER in favor of Plaintiff for a compensation as "tax obstruction" damages** and against the Defendants and each of them, jointly and severally, with the amount of compensatory damages to be (a) equivalent to 1,000 times the sum Defendants should have originally collected --48.17-- BUT REFUSED FIVE TIMES from Plaintiff, OR (b) in an amount equal to the sum of taxes collected through all of Defendant licensing entity's operations on all of the dates Plaintiff tried to the pay tax and related fees, and was refused services - November 27, 1996, December 6, 1996, January 2, 1997, and December 4, 1997) with said sums "(a)" or "(b)" to be used for such public purpose(s) as Plaintiff may directly filing Notice thereof, and with the proviso that in the event of entry of a default judgment, $48,170.00 shall be the applicable sum.

AND for other judicial relief in the nature of an ORDER and against the licensing Defendants (A) to deter and prevent, or punish, any similar future acts or omissions in the nature of refusal of excise tax payments based upon Social Security System membership or non-membership, by providing for the incarceration of Defendant Commissioner for a minimum period of 30 days with 30 days increments for each incident of contumacious conduct irrespective of the individual name of the bad actor, with such incarceration period(s) of whatever duration to also be served concurrently by the individual bad actor, or preferably (B) to prevent any similar and other constitutional violations, future bad faith operations, or politically motivated agendas, by requiring the Defendants to return, by certified mail, restricted delivery, with respect to ALL NON-COMMERCIAL MOTOR VEHICLES, ALL ORIGINAL TITLES, also known as the MSO or MANUFACTURERS CERTIFICATES OF ORIGIN (see Exhibit One p.9-11) to the individual private owners (including Plaintiff) and RECALL FOR DESTRUCTION all related license plates and non-commercial drivers licenses, prohibiting the licensing Defendants' possession thereof on constitutional grounds for all time in acknowledgment of the

private citizens' right of travel (with the same force and effect as would be appropriate to stop any other expedient scheme (for example, restricting, regulating, or taxing the right of essential self-governing by a poll-tax, or the right of self-preservation by basic food or medicine taxes --all rights that private citizens enjoy so long as they don't threaten the life, liberty or property of others), and to assure timely compliance, imposition of contempt of court penalties against Defendant licensing commission and commissioner upon 30 days notice;

Count Six, relative to: malicious and willful conduct of Defendant licensing entities, -----**$50,000.00 as the punitive and exemplary damages award for "malicious and willful license plate deprivation and related problem-causing"** in favor of Plaintiff and against the Defendants, and each of them, jointly and severally;

Count Seven, relative to: acts & omissions of hospital entity, -- ----**$20,000.00 as compen-satory "hospital practices" damages in favor of Plaintiff,**
AND for other judicial relief by the placement of an ORDER (A) in favor of Plaintiff requiring Defendant Carlstedt to personally either cut-out, "white-out" and initial, or otherwise obliterate and destroy all records said hospital facility has caused to be in existence related to the **Social Security Number** assigned to Plaintiff, and any similarly situated persons, **and (B)** against the Defendant hospital president, to assure correction, deterrence and prevention, or punishment of, any similar future acts or omissions toward the involuntary coloring of records as associated with the Social Security System, by providing for the incarceration of said Defendant Carlstedt for a minimum of 30 days with 30 days increments, for each incident of contumacious conduct irrespective of the individual name of the bad actor in her facility;

Count Eight, relative to: constructive malic-iousness and willfulness of hospital entity, ------**$20,000.00 as the punitive and exemplary award for "malicious and willful hospital" practices damages** in favor of Plaintiff and against the Defendant;

Count Nine, relative to: acts & omissions of corporate university

policing entities, ------**$20,000.00 as the award for "unlawful policing" damages** in favor of Plaintiff and against the Defendants, and each of them, jointly and severally;

Count Ten, relative to: constructive maliciousness and willfulness of corporate university policing entities, ------**$20,000.00 as the punitive and exemplary award for "malicious and willful corporate university police action" damages** in favor of Plaintiff and against the Defendants, and each of them, jointly and severally,

Count Eleven, relative to: unlawful & warrantless seizure by tow truck operator,------**$5,000.00 as the award for "unlawful empowerment & warrantless seizure and impoundment" damages** in favor of Plaintiff, and against Defendant and each of them, jointly and severally.

Count Twelve, relative to: acts & omissions of court clerk & deputy prosecutor, ------ **$50,000.00** (for Defendant Clerk Haley's acts and omission) **plus $100.00.00** (for Defendant Deputy Prosecutor Trulock's acts and omission) **as the award for "clerking and prosecutorial basic acts and omissions" damages** in favor of Plaintiff, and against Defendant, each of them, jointly and severally;

Count Thirteen, relative to: running of Traffic Diversion Racket by court clerk & Deputy Prosecutor, -----**$100,000.00** as compensation, plus $1,000.00 per hour, or any part thereof, upon, and as a damage consequence of, any cop or police officer occurrence nationwide involving the detainment, arrest, and/or incarceration of Plaintiff as a result of, or arising from, or flowing upon the acts and omissions complained of, or alleged, or referenced as included, in this Count Thirteen and specifically including but not limited to, the absence of a license plate on Plaintiff's car, and Judge Bridges' issuance or publication of the March 26, 1998 Warrant for the Arrest of Plaintiff upon Plaintiff's (or in case of disability for any reason, her agent's) filing of a Count Thirteen Notice and Demand therefor supported by an Affidavit of facts, plus $3,000.00 per week, or part thereof, for each and every week during which the herein alleged Traffic Diversion Racket, or "traffic deferral program," or any similarly functioning scheme by any name or description whatsoever,

continues to operate in Monroe County with such weekly sum accruing from the date of service of this Complaint and the Summons upon Defendant Clerk Haley with said weekly racket running sum(s) damages to be used for such public purpose(s) as Plaintiff may direct by the filing and service of Notice thereof with the Clerk of this Honorable Court, with said Traffic Diversion Racket damages laying against Defendants, and each of them, jointly and severally, and Plain-tiff demands trial by jury,

AND Plaintiff also requests the issuance of an ORDER prohibiting the operation of aforesaid Traffic Diversion Racket or "traffic deferral program" AND any similar functioning scheme undertaken by any other name, upon the penalty of incarceration of each and every facilitator and/or operator of such racket, program, or scheme for a minimum 90 day period with increments in such incarceration periods by 30 days for each individual bad actor's subsequent contu-macious conduct,

Count Fourteen, relative to: Conspiracy and Obstruction of Justice by Court Clerk & Deputy Prosecutor, $200,000.00 for Plaintiff's compensation, and against Defendants, and each of them, jointly and severally, and in addition, any reasonable and appropriate sums to be paid and received as this Honorable Court may direct, to offset any cost that may result from the hereinafter sought relief of a federal protective Order causing the monitoring and supervision of the proceedings and transactions of the Monroe County Court and Clerk's Office, with said offsetting costs allotments to be subject to review and adjustment for each and every 2 year period of such protective Order;

AND for such an ORDER to provide for protective federal monitoring and supervision of the proceedings and transactions of the Monroe County Court and Clerk Office for a period of not less than two years, and which period shall be renewable for additional two year periods upon the filing of a written NOTICE (without demand or condition of payment of any filing or recording fee), by any person aggrieved of the acts or omissions of said court, and/or said clerk's office and therefore requesting the continuance of such monitoring and supervision ORDER, with such ORDER providing some prompt and effective enforcement

mechanism such as 3 to 30 day contempt of Court Order incarcerations for each and every incident of contumacious conduct occurring during such monitoring and supervision period, so that persons having business in the Monroe County Court or Clerk's Office will NOT suffer foreclosure of their state court access rights, due process rights, or corruption and obstruction of justice as has Plaintiff;

Count Fifteen, relative to: willfulness and maliciousness, ------ $300,000.00 as Plaintiff's compensation and against Defendants, and each of them, jointly and severally; and

Count Sixteen, relative to: liability of bonding agents & insurers, Plaintiff Lynn Johnston claims monetary compensations pursuant to **Counts One through Fifteen** to the full extent of the provisions of the respective policies on each and all Defendants said bonding agents and insurers have undertaken to indemnify.

As General Justice and Additional Relief, Plaintiff also hereby make Requests:

FOR AN ORDER voiding and expunging any and all state or national record or data base entries, and including computerized arrest warrant entries, suggesting that the Plaintiff Lynn Johnston has committed, was charged with, or is wanted for questioning or to answer for, any crime or charge arising upon or flowing as a consequence from the failure and repeated refusal of Defendant Bureau of Motor Vehicles Commission and its agents to accept motor vehicle excise tax payments, Certificates of Title registrations, and License Plate fees from Plaintiff;

FOR AN ORDER quashing, or causing the Defendants to, in effect, quash, any and all notices, and orders, or the like, revoking or suspending Plaintiff's Drivers License, and including the quashing of any arrest warrants or orders or notices to appear and answer for, or defend, any criminal allegation or charge under color of law, arising upon or flowing from, or as a consequence of the failure and repeated refusal of Defendant Bureau of Motor Vehicles Commission and its agents to accept motor vehicle excise tax payments, Certificates of Title registrations, and License Plate fees from Plaintiff;

FOR AN ORDER or RECOMMENDATIONS causing a formal investigation for criminal wrongdoing of Monroe County Court Judges Welch, Mann & Bridges to be instituted as well as a formal judicial fitness inquiry by appropriate authorities;

FOR A RECOMMENDATION directed to appropriate parties or bodies, to the effect that Defendants Monroe County Deputy Prosecutors Jim Trulock, and Jeff Kehr, and Monroe County Court Judge Douglas R. Bridge, be disbarred, and that Monroe County County Clerk Pat Haley and all the aforesaid BAR members be REMOVED FROM OFFICE and disqualified from holding any public office of trust or profit;

AND FOR ANY FURTHER ORDER that may be appropriate, or that justice may require, particularly in light of the ongoing nature of the violations and risk of multiple police, clerk, judicial, and/or prosecutorial incidents against the rights and privileges and interests of the Plaintiff Lynn Johnston;

AND Plaintiff requests the costs of this Action, including compensation in the nature of reasonable attorney fees as compensation in an amount commensurate with the appropriateness and complexity of the undertaking, and demands trial by jury.

United States District Court
Southern District of Indiana
Civil Action No. I P 98-0621 C - H/G

FILED
U.S. DISTRICT COURT
INDIANAPOLIS DIVISION

98 JUL 15 PM 1:09

FILED
U.S. DISTRICT COURT
INDIANAPOLIS
DIVISION
98 JUL 15 PM 1:09
[by Lynn Johnston]

LYNN JOHNSTON,
Plaintiff,

v

THE BUREAU OF MOTOR VEHICLES COMMISSION, ET AL
Defendants.

PLAINTIFF'S JULY 14th RESPONSE & NOTICE

N O W C O M E S Plaintiff Miss Johnston to communicate the following:

1. That on May 12, 1998, within a day after virtually all of the major Defendants and the Indiana Attorney General were served, the Chief Judge to whom this case was assigned entered what was represented to be her own Order crabbing about and striking the Complaint under the guise of the **Fed.R.Civ.P. 8(a)(2) and (e)(1),** representing that the Complaint violates both the letter and spirit of Rule 8, and allowing Plaintiff through June 4, 1998 during which time an amended complaint may be filed within the strictures of Rule 8.

2. That on June 4, 1998, Plaintiff timely filed and served her "Motion for Recusal; with Vacatur of Judge Barker's May 12, 1998 Order Striking the Complaint" with the required Brief in Support, Certificate of Good Faith Application, and Affidavit of Facts. Subsequently the Chief Judge, on June 10, 1998 issued an Order removing herself from the case and directing the Clerk to reassign the case to another judge under **Local Rule 41.1.** The case was then assigned to Congressman Lee Hamilton's nephew, Judge David F. Hamilton who in the not too distant past, upon information and belief, worked closely with one Robert Johnstone, engaging in the legal business and entering into a common business partnership and economic relationship together

with others at one the largest and most politically well-connected law firms in Indiana (Barnes & Thornburg) with offices in 5 cities including Washington, D.C. By notice dated June 15, 1998, Attorney Johnstone filed his formal Appearance with the Clerk on behalf of several of the Defendants.

3. That the next day, on June 16, 1998, Judge Hamilton, representing that he had reviewed the filings, entered his Order essentially rubber-stamping the prior striking Order of the Chief Judge, allowing Plaintiff an unsolicited extension of time through July 15, 1998 during which an amended complaint may be filed as previously directed by the Chief Judge.

4. That the **Rules of Civil Procedure at 7(a)** state that "[t]here shall be a complaint and an answer." That because Plaintiff's causes of action are in large measure of an ongoing nature, which is an exclusive result of Defendants' misconduct and recalcitrance, the Complaint is, of necessity, more lengthy than it would otherwise would need to be. Therefore Defendants should not justly benefit from the conditions, burdens, and wrongs they themselves have set in motion and sustain, and about which Plaintiff is entitled to formally complain in sufficient detail to demonstrate the breath, depth, and gravity of the matters at issue to enable a reader of the allegations to understand them and either admit or deny them, or leave Plaintiff to her proofs. Notions about the Complaint being too long to necessitate Defendants' Answer or sufferance of the consequences, are irrelevant and purely partisan, and of a transparent political motivation regardless of whomever suggested, lobbied, initiated, produced and/or sustained the striking of the Complaint.

5. Plaintiff is pro se litigant suffering significant disadvantages in proceeding including a brain injury, and she is not a lawyer, and has never earned any undergraduate or advanced university degree in anything. Nonetheless, Plaintiff has undertaken enormous, persistent, good faith efforts to investigate and obtain the legal research and guidance required to produce a proper, intelligible Complaint and other necessary legal documents. This feat was and is, in part, accomplished through the reference and research assistance publicly available at Indiana University Law School, as well as other libraries' reference staffs. Said law school library collection of practice

books and materials was the source used for the Complaint format and phraseology, and Plaintiff observes and asks that it be noted that this would normally be expected to be deemed a safe and reliable source of such legal document drafting guidance, and NOT something that would result in a virtually immediate and comprehensive striking of the resultant Complaint after it was filed, summonses issued, and within hours after service was effected on the major Defendants and the Indiana Attorney General. Thus it is appears strongly suggested that the genuine objectionable issue is the Complaint/Exhibits content and illegalities and political problems related thereto.

6. Plaintiff suggests that Notice should be taken of **Local Rule 8.1 Pro Se Complaints** which purports to single out and burden pro se complainants as a class of persons as well as 4 classes of Complaints. The practical and prejudicial consequence of requiring the swearing under penalty of perjury as to the truth of very bit of the contents of a pro se complaint, is that those things subject to discovery process after the filing of the complaint and thus not known with "penalty of perjury certainty" at the filing of the complaint, of necessity must be stated in a cumbersome and repetitive manner (such as "upon information believed to have been reliably provided", etc.), with much more document composition work required under the apparent context and presumption that pro se litigants are dishonest and to be discouraged. Plaintiff objects to this higher threshold standard of complaint as unfair, burdensome, and prejudicial, and its result in the instant case is, at least in part, reasonably giving rise to a pretense for crabbing about the wording of the Complaint. Plaintiff further objects to the prejudicial and burdensome requirement that pro se complainants draft their complaints on the forms actually supplied by the court. The practical consequence again is unfair, burdensome, and prejudicial, and had Plaintiff not been willing to risk the $1,000.00 Local Rule violation fine, she would have not been able to use her Macintosh computer or otherwise reasonably produce an edited, spell-checked, readable, relatively professional looking, and appropriate Compliant. It is obvious to anyone contemplating the daunting task of hand printing or even typing out the necessary multiple copies of a complaint, that the special requirement of using the actual court supplied forms is meant to discourage and dissuade pro se complainants from exercising

their constitutional rights in a neutral forum. Additionally the court supplied forms suggest that the specific details of who did what (or didn't as the case may be), when, and how are required, which seems somewhat confusing in light of F.R.Civ.P Rules 8 and 9 which differentiate between various categories in the pleading of the allegations. This situation also gives rise to a pretense for crabbing about a pro se complaint based on the provision any information beyond the what may be regarded as the sloppy or last minute bare minimum to preserve one's right to proceed with a Rule 8 cause of action before statute of limitations tolls. Plaintiff submits that it is unconscionable to fault a pro se litigant for a attempting to meet a locally imposed higher and more wordy standard of legal composition, and more pointedly so in light of the body of precedents indicating that a less rigorous standard is to be applied to pro se complainant and their work product. Notice should also be taken of **Local Rule 1.3 - Limitations on Sanctions for Errors as to Form** which provides that violation of any local rule governing the form of pleadings and other papers filed with the Court subjects the violator to the imposition of a fine not to exceed $1,000.00 and providing that nothing in such rule shall prohibit the Court from ordering stricken from the record a paper which does not comply with these rules. Plaintiff protest the imposition of the threat and risk of such a financial penalty as a consequence of using her own paper, computer, and civil rights complaint format and phraseology provided and used by legal authorities on civil rights practice and pleadings.

7. That Rule 8(e)(2) provides that a party may also state as many separate claims as the party has whether based on legal or equitable grounds, which is exactly what Plaintiff did in 16 separate counts. A cursory analysis of the Complaint will show that although it is a lengthy and complex cause of action with 19 defendants and 16 separate counts, none of the following counts which may arguably come under the purview of Rule 8, is unduly long, and all of the following counts and allegations contained therein can be admitted, denied, or otherwise pleaded out in accordance with the complaint response provisions of the same Rule 8:

Count One consists of 10 pages (and involves the Acts or Omissions of the Bureau of Motor Vehicles Commission

and its agents -7 Defendants);

Count Two consists of 12 pages (and involves a cause of action as a consequence of Providing a Context of Prejudicial & Coercive Circumstances Under Which Bodily, Property & Other Injuries Occur through Defendant Bureau of Motor Vehicles Commission and its Agents);

Count Three consists of 2 pages (and involves a cause of action resulting from a Social Security System Conspiracy for Effecting 100% Membership through Defendant Bureau of Motor Vehicles Commission, its Agents, and Defendant Hospital Entity);

Count Four consists of 4 pages (and involves a Legal Conspiracy for Infliction of Predictable Economic & Legal Pains and Punishments by Malicious Empowerment of Cops, Clerks & Prosecutors Nationwide through Defendant Bureau of Motor Vehicles Commission and its Agents);

Count Five consists of 3 pages (and involves a cause of action as a consequence of Tax Collection Obstruction by Defendant Bureau of Motor Vehicles Commission & its Agents);

Count Six consists of 2 pages (and involves a cause of action arising upon the Malicious & Willful Conduct of Defendant Licensing Authority Entities);

Count Seven consists of 4 pages (involving the Acts & Omissions of Defendant Hospital Entity);

Count Eight consists of 3 pages (involving a cause of action for Constructive Maliciousness and Willfulness of Defendant Hospital Entity);

Count Nine consists of 6 pages (involving the Acts & Omissions of Defendant Corporate University Policing Entities);

Count Ten consists of 4 pages (involving the Constructive Maliciousness and Willfulness of Defendant Corporate University Policing Entities);

Count Eleven consists of 4 pages (involving the Unlawful Empowerment & Warrantless Seizure by Defendant Tow Truck Operator);

Count Fourteen consists of 2 pages (involving a Conspiracy and Obstruction of Justice);

Count Fifteen consists of 2 pages (involving a cause of action for Courthouse Willfulness and Maliciousness); and

Count Sixteen consists of 1 page (involving the Liability of Bonding Agents & Insurers).

Because the other 2 counts, which are somewhat long and detailed (**Count Twelve consisting of 15 pages** involving the Acts & Omissions of Defendants Court Clerk & Deputy Prosecutor, and **Count Thirteen consisting of 17 pages** involving the Running of a Traffic Diversion Racket), involve pleading "Special Matters" (such as fraud), they do not come under the strictures of **Rule 8**, but rather **Rule 9** which requires stating the allegations with particularity. It should be further noted that the allegations contained in these 2 counts can also be admitted, denied, or otherwise pleaded out in accordance with the complaint response provisions of **Rule 8**.

8. That because **Rule 7** designates that there "shall be" a complaint and an answer. A review of the **Index to the Fed. Rules of Civ. P.** under "Striking" refers the reader to see "Pleadings" and thereunder upon checking the term "Complaint" striking is not provided for, and further checking under "Pleadings" for the term "Striking," broad brush complaint striking is not provided for, but **Rules 12(e), 12(f), 14(a), 37(b), and 37(d)** are referenced. Upon checking the content of such rules, only **Rule 12(f)** has any relevance to the situation in the instant case. It reads:

Motion to Strike. Upon motion made by a party before

responding to a pleading or if no responsive pleading is permitted by these rules, upon motion made by a party within 20 days after the service of the pleading upon the party or upon the court's own initiative at any time, the court may order stricken from any pleading any insufficient defense or any redundant, immaterial, impertinent, or scandalous matter.

Plaintiff submits that the Chief Judge Sarah Barker and Judge David Hamilton, have, at minimum, over reached the actual provisions and legitimate purposes of the Rules governing striking by their wholesale striking of the Complaint. Striking redundant, immaterial, impertinent, and/or scandalous material from a complaint, is indeed of a different purpose and character of conduct than striking every word and allegation comprising a compliant, and the difference is that state of governance wherein the courts are a neutral forum for the peaceful and regular hearing and resolution of grievances as opposed to that state of political affairs wherein the courts are means for silencing unpopular complainants.

9. That it would appear that the content matter apparently found to be the genuine basis for the striking of the Complaint, most likely consists of the Counts 12, 13 and 14, and perhaps the damage section references to prior covert military interference in Plaintiff's civil litigation by naval personnel and/or similar references to the problem of covert executive agents operating as Black Flag Judges and lawyers. Nonetheless, these are genuine damage issues and ongoing problems for which Plaintiff can provide documentary and other proof. Moreover, Plaintiff alleges Judge Douglas R. Bridges' naval career, and asks that special notice be taken of his unprecedented conduct against Plaintiff in the underlying Monroe County Courthouse. Further, should it become necessary, Plaintiff will provide a comprehensive brief on the Naval loophole and promotion of its own form of adjudicatory activity and exemption from the constraints of the Posse Comitatus Act. Plaintiff further discloses the discovery of "Clipper" and "Scaler" things on her private computer, and states that to the best of her own knowledge and beliefs her apparent Navy problems stem from raising a question in a public forum related to the testing cobalt bombs under the Great Lakes while she was a candidate for US

Senate in 1984.

10. Plaintiff hereby gives notice and protests of invasions of her privacy, property and security and intends to prosecute to the fullest extent possible all criminal violations and foul play, and states for the record, that all of the outside lights on the large apartment building in which Plaintiff resides, and which are normally and automatically on from dusk to dawn apparently coincidentally burned out within hours concurrently with what is another in the ongoing suspected malicious tampering of Plaintiff's motorbike lighting, and steering mechanisms, and necessitating Plaintiff's undertaking arrangements to have professional evaluation or gathering of evidence of possible foul play. Additionally, because of the ongoing transportation deprivations caused and maintained by Defendants, Plaintiff depends on regular use of the aforesaid motorbike, and strenuously protests this situation and the bearing all the additional expenses related thereto including alternative transportation costs and consequential inconveniences.

11. That Defendants served on about May 11 or 12, 1998, have had in excess of 60 days within which to contemplate appropriate responses to the Complaint.

THEREFORE in light of the foregoing, one of the following will occur (providing Plaintiff does not meet with untimely incapacitation): (A) Plaintiff will timely seek review and corrective action at the Seventh Circuit Court of Appeals; (B) Defendants will file and serve Answers to the allegations in the Complaint; or (C) The parties will execute and record evidence of settlement.

July 15, 1998

Respectfully submitted,

/s/

Lynn Johnston, Plaintiff

IP98 - 1012 - T / G

PETITION UNDER 28 USC § 2254 FOR WRIT OF HABEAS CORPUS BY A PERSON IN STATE CUSTODY

Companion Case # 0006[sic] 98 m/s

FILED
U.S. DISTRICT COURT
INDIANAPOLIS DIVISION
98 JUL 23 PM 4:09

AO 241 (REV. 5/85) District

United States District Court Indiana - Southern Division

Place of Confinement	Prisoner No.	Case No.
Monroe County Jail & Courthouse 301 N. College Avenue Bloomington, IN 47404	**Unknown (in Segretion 5 after receipt of forms)**	**53CO59711 IF07836***

Name of Petitioner (include name under which convicted) Name of Respondent (authorized person having custody of petitioner)

Lynn D. Johnston v. **Randy Williamson (Sheriff)**

The attorney General of the State of: **Indiana Jeffry Modisett**

PETITION

1. Name and location of the court which entered the judgment of conviction under attack **Monroe County Circuit Court Div V (Judge Bridges) 301 N. College Bloomington, Ind.**

2. Date of judgment of conviction **March 26, 1998**

3. Length of Sentence **not specified (arrest & jailed July 16, '98)**

4. Nature of offense involved (all courts) **criminal infraction of no registration plate on car**

5. What was your plea? (Check one)
(a) Not guilty **On Dec. 4, '97 when I appeared pursuant**
(b) Guilty **to summons, I was diverted and obstructed**

(c) Nolo contendere **from entering a pleas before a judge by Deputy Prosecutor Trulock.***

If you entered a guilty pleas to one court or indictment, and a not guilty pleas to another count or indictment, give details: N/A

*** Please see my Notice of Removal -case 0006-98 Jan. 3, '98 and Judge McKinney's Remand directing appeal, of Jan. 6. '98**

6. If you pleaded not guilty, what kind of trial did you have?
(Check one)__
(a) Jury__
(b) Judge only)__
N/A

7. Did you testify at the trial?
Yes__ No_X_ **I was not summoned to trial**

8. Did you appeal from the judgment of conviction? **On Dec. 18,**
Yes__ No_X_ **'97 default judgment was entered against me for alleged failure to appear Dec. 4, '97 for a fine and suspension of license if not paid. I removed the case [to] the federal court ASAP.**

9. If you did appeal, answer the following:
(a) Name of court Monroe County County. **Pursuant to Judge McKinney's Remand Order, I filed the Claim of Appeal & order[ed] the certified record on or about Jan. 9, 1998.**

(b) Result **The public Record became unavailable, record/evidence was disappeared, added, and altered, in effect Blocking the Appeal. On 3-26-98 Judge Bridges without summoning my appearance, held a Jury Trial in m y absence.**

(c) Date of result and citations, if known N/A

(d) Grounds raised N/A

(e) If you sought further review of the decision on appeal by a higher state court, please answer the following:

(1) Name of court N/A
(2) Result N/A
(3) Date of result and citations, if known N/A
(4) Grounds raised N/A

(f) If you filed a petition for certiorari in the United States Supreme Court, please answer the following with respect to each direct appeal:

(1) Name of court N/A
(2) Result N/A
(3) Date of result and citations, if known N/A
(4) Grounds raised N/A

10. Other than a direct appeal from the judgment of conviction and sentence, have you previously filed any petitions, applications, or motion with respect to this judgment in any court, state or federal?

Yes X No__

11. If you answer to 10 was "yes," give the following information:

(2 cases)

(a) (1) Name of court U.S. District Court - Indianapolis

(2) Nature of proceedings (A) In Re Monroe County Case 53 CO5-9711-IF-07836; & (B) Lynn Johnston vs The Bureau of Motor Vehicles Commission, et. al. (May 7, 98)

(3) Grounds raised (A) Foreclosure of state court rights, meaningful access, deprivation of a neutral judge or magistrate and due process; (B) deprivation of civil rights, damages from criminal conduct, and damages from violations [of] official duties and responsibilities.

(3)

AO 241 (REV. 5/85)

(4) Did you receive an evidentiary hearing on your petition, application or motion?

Yes__ No_X_ **however, the May 7, '98 civil rights case is still pending.**

(5) Result **yet to be determined.**

(6) Date of result **N/A**

(b) As to any second petition, application or motion give the same information:

(1) name of court **N/A**
(2) Nature of Proceedings **N/A**
(3) Grounds raised **N/A**
(4) Did you receive an evidentiary hearing on your petition, application or motion? **N/A**
Yes__ No__ **N/A**
(5) Result **N/A**
(6) Date of result **N/A**

(c) Did you appeal to the highest state court having jurisdiction the result of action taken on any petition, application or motion?

(1) First petition, etc. Yes__ No_X_ **My appeal was blocked as aforesaid.**
(2) Second petition, etc. Yes__ No__ **N/A**

(d) Id you did not appeal form the adverse action on any petition, application or motion, explain briefly why you did not: **The state-court appeal suggested in Judge McKinney's Remand 1-6-98 was blocked by Monroe County Clerk & Judges. Record evidence necessary to the Appeal was **disappeared. I was left with no remedy except a civil rights suit.**

** **The Federal Removal Petition Exhibits have the Record copies thru Dec. '97.**

12. State *concisely* every ground on which you claim that your are being held unlawfully. Summarize briefly the facts supporting each ground. If necessary you may attach pages stating additional grounds and facts supporting same.

C A U T I O N: In order to proceed in the federal court, you must ordinarily first exhaust you available state court

remedies as to each ground on which you request action by the federal court. If you fail to set forth all grounds in this petition, you may be barred from presenting additional grounds at a later date.

(4)

AO 241 (REV. 5/85)

For your information, the following is a list of the most frequently raised grounds for relief in habeas corpus proceedings. Each statement preceded by a letter constitutes a separate ground for possible relief. Your may raise any ground which you may have other than those listed if you have exhausted your state court remedies with respect to them. However, you should raise in this petition all available grounds (relating to this conviction) on which you base your allegations that you are being held in custody unlawfully.

Do not check any of these listed grounds. if you select one or more of these grounds for relief, you must allege facts. The petition will be returned to you if you merely check (a) through (j) or any one of these grounds.

(a) Conviction obtained by plea of guilty which was unlawfully induced or not made voluntarily with understanding of the nature of the charge and the consequences of the plea.

(b) Conviction obtained by use of coerced confession.

(c) Conviction obtained by use of evidence gained pursuant to an unconstitutional search and seizure.

(d) Conviction obtained by use of evidence obtained pursuant to an unlawful arrest.

(e) Conviction obtained by a violation of the privilege against self-incrimination.

(f) Conviction obtained by the unconstitutional failure of the prosecution to disclose to the defendant evidence favorable to the defendant.

(g) Conviction obtained by a violation of the protection against double jeopardy.

(h) Conviction obtained by action of a grand or petit jury which was unconstitutionally selected and impaneled.

(i) Denial of effective assistance of counsel.

(j) Denial of right of appeal.

A. Ground one: **Foreclosure of state court rights. The 3-26-98**

person who was not summoned for a "trial" already finished.

D. Ground four: **See p. 8**
Supporting FACTS (state briefly without citing cases or law)

or E

13. If any of the grounds listed in 12A, B, C, and D / were not previously presented in any other court, state or federal, state briefly what grounds were not so presented, and give your reasons for not presenting them: **Other than in my 5-7-98 civil rights suit, only 12A Grounds were presented in the Removal 1-3-98. BCDE blockages of my appeal rights, etc. and the infliction of the extraordinary punishments had not occurred yet.**

14. Do you have any petition or appeal now pending in any court, either state or federal, as to the judgment under attack?
Yes_X_ No__ **My civil right[s] suit amounts to a petition for redress of grievances but the bogus Arrest Warrant had not been executed when I filed 5-7-98.**

15. Give the name and address, if known of each attorney who represented you in the following stages of the judgment attacked herein:

(a) At preliminary hearing None
(b) At arraignment and plea None

(c) At trial None
(d) At sentencing None
(e) On appeal None
(f) In any post-conviction proceeding None to date
(g) On appeal from any adverse ruling in a post-conviction proceeding None to date

16. Were you sentenced on more than one count of an indictment, or on more than one indictment, in the same court and at the same time?
Yes__ No_X_ **No indictment, only a single incident of a minor, non-moving traffic infraction**

17. Do you have any future sentence to serve after you complete the sentence imposed by the judgment under attack?
Yes__ No_X_

(a) If so, give name and location of court which imposed sentence to be served in the future: N/A

(b) Give date and length of the above sentence: N/A

(c) Have you filed, or do you contemplate filing, any petition attacking the judgment which imposed the sentence to be served in the future?
Yes__ No__ N/A

Wherefore, petitioner prays that the Court grant petitioner relief to which he[sic] may be entitled in this proceeding, and immediately issue an Order to Show Cause why I should not immediately and unconditionally be released directed to the Sheriff, and a similarly Order directed to Judge Douglas Bridges as to why he should not be held in contempt of the 1-6-98 REMAND ORDER.

N/A
Signature of Attorney (if Any)

I declare under penalty of perjury that the foregoing is true and correct. Executed on Tuesday, July 21, 1998
(date)

/s/ Lynn D. Johnston
Signature of Petitioner

(7)

[Added sheet of paper per instruction in question 12]

D. Ground Four: Convictions were entered prematurely.
Supporting Facts:

(1) No Pleas has been solicited or entered by any neutral judge, magistrate, or clerk.

(2) I have yet to be read my rights or advised of assistance that might be available to me.

(3) I have not waived my right to assistance of counsel at each and every stage of the proceedings as required under Argersigner vs Hamlin.

(4) I would have needed Assistance of Counsel to procure evidence

or witnesses in my favor, and possibly during discovery, had I been arraigned and tried in person.

E. Ground Five: **The Monroe County Jails operating in violation of the 8th Amendment.**
Supporting Facts:
(1) Over-crowding such that 16 to 18 prisoners are housed cheek to jowl where designed for 7 or 8.
(2) Serious communicable diseases risks such as but not limit to bodily parasites.
(3) Unsealed and damaged surfaces including matrices.
(4) Unsanitary conditions of plumbing fixtures spreading e. coli bacteria onto water sources and toothbrushes.
(5) Grime, dirty air and chunk dust in confined quarters.
(6) Inadequate nutrition with no fresh fruit in 6 days, etc.
(7) Eye glasses deprivation with inability to read rule book.
(8) Subjection to threat against my life and serious harassment.

I have no more paper for this, nor stamps, nor envelopes, no phone in Seg. 5.

(8)

Form Prescribed by State Board of Accounts
County Form No. 41 (1988)

FEE BOOK

53C05 9711 IF 07835 Filed: 11/26/1997
ST V ANTONIO X HONCRIEF
App. Date: 12/11/1997 Time: 01:00 PM
DOB: 11/24/1967 Fines/Costs: $115.50
SP75/55
EXCEEDING MAXIMUM SPEED (55 MPH)
Court Costs $ 75.50 Receipt No. 270870
Amount of Judgment $ 40.00
Date of Judgment 1-9-98 JD ____ Pg No. ____
Other Information ____

Additional Information or Receipt
User Fees ____
Misc. Fees ____

53C05 9711 IF 07836 Filed: 11/26/1997
ST V LYNN D JOHNSON
App. Date: 12/04/1997 Time: 01:00 PM
DOB: 05/03/1947 Fines/Costs: $82.50
NO OR EXPIRED VEHICLE REGISTRATION
Court Costs ____ Receipt No. ____
Amount of Judgment ____
Date of Judgment ____ JD ____ Pg. No. ____
Other Information ____

Additional Information or Receipt
User Fees ____
Misc. Fees ____

Date: 12/18/1997
You failed to appear 12/04/1997
for your traffic hearing, and
a default judgment was entered
against you. If you do not
pay your fine by 01/08/1998,
notification will be sent to
the Indiana Bureau of Motor
Vehicles to have your license
suspended.
Case Number: 53C05 9711 IF 107836
Total Due: $82.50
MONROE COUNTY CLERK
P.O. BOX 547
BLOOMINGTON, IN 47402
TO: LYNN JOHNSON
816 AUTO MALL ROAD #243
BLOOMINGTON, IN 47401
BLOOMINGTON IN DEC 18 97
U.S.POSTAGE
0.20

CHRONOLOGICAL CASE SUMMARY
INFRACTION, MONROE CIRCUIT COURT DIV V

FOR CAUSE NO: 53C05 9711 IF 07836
ST V LYNN D JOHNSTON
THE HONORABLE DOUGLAS R BRIDGES

ACTION: DATE FILED: 11/26/1997
CT 1: NO OR EXPIRED VEHICLE REGISTRATION
9-18-2-29 Class C Infraction

ENTRY/FEE BOOK: PAGE:
BOOK: 0 PAGE: 0
BOOK: 0 PAGE: 0

ATTORNEYS	PARTIES
1854 55 CARL SALZMANN MONROE COUNTY PROSECUTING ATTY 301 N COLLEGE AVENUE BLOOMINGTON IN 47401 812-333-3670	PLAINTIFF STATE OF INDIANA
	DEFENDANT LYNN D JOHNSTON 816 AUTO MALL ROAD #243 BLOOMINGTON IN 47401

FINANCIAL INFO

PAYOR: LYNN JOHNSTON

COURT COSTS - STATE	$49.00
COURT COSTS - COUNTY	$21.00
INFRACTION JUDGMENTS	$7.00
LAW ENFORCEMENT CONT ED	$3.00
HIGHWAY WORKZONE FEE	$0.50
JURY PAY FUND	$2.00

CHRONOLOGICAL SUMMARY OF FILINGS AND PROCEEDINGS

11/26/1997 Notice: N RJO: N

Infraction violation filed. Initial hearing set for 12/04/97 at 1:00 PM.
Defendant notified by receipt of citation. MSL

12/18/1997 Notice: N RJO: N

Defendant fails to appear for initial hearing. Warning letter mailed.
Defendant directed to pay fines & costs or appear by 01-08-98. mb

12/29/1997 Notice: A RJO: N

NOTICE OF SUSPENSION FOR FAILURE TO COMPLY

INDIANA BUREAU OF MOTOR VEHICLES
SAFETY RESPONSIBILITY AND DRIVER IMPROVEMENT DIVISION
Indiana Government Center North
100 North Senate Avenue, Room N402
Indianapolis, IN 46204-2214
Telephone Number: (317) 232-2840

DATE OF NOTICE
JUN 18, 1998

LICENSE NUMBER
0130-24-2093

YOUR DRIVING PRIVILEGES WILL BE SUSPENDED AS OF JUL 01, 1998, DUE TO A REPORT OF FAILURE TO APPEAR FROM THE FOLLOWING COURT

MONROE CIRCUIT 5
301 NORTH COLLEGE AVENUE
JUSTICE BUILDING
BLOOMINGTON IN 47401-2826

COURT TELEPHONE: 812/349-2602
COURT CAUSE NO.: 53C05-9711IF07836
OFFENSE: NON-POINTABLE VIOLATION
OFFENSE DATE: NOV 24, 1997

YOU MUST CONTACT THE COURT TO DISPOSE OF YOUR TRAFFIC CITATION. NO RELIEF CAN BE GRANTED UNTIL THIS CITATION IS CLEARED THROUGH THE COURT AND NOTIFICATION OF CLEARANCE IS RECEIVED BY THE BUREAU OF MOTOR VEHICLES

PLEASE SEE BELOW FOR MORE DETAILED INFORMATION

IMPORTANT INFORMATION

In order to prevent this suspension the Bureau must receive one of the following from the Court shown on the top of this form:

Indiana Court - Abstract of Court Record (form SR-16)
or
Out-of-State Court - Certificate of Compliance from the Court. If you believe that this out-of-state citation was added to your record in error, you may request an administrative hearing by writing the Bureau at the address on the top (please show ATTENTION: HEARINGS on your envelope.)

This suspension will not become effective if the required document is received by the Bureau prior to the suspension date shown on the top of this form.

If this suspension is placed into effect, any driver's licenses in our possession are not valid and, if you attempt to drive while suspended, you may be arrested and jailed for driving while suspended.

A copy of a receipt or money order, etc., is not valid proof that the case has been satisfied.

Failure to Appear Suspension per Indiana Code 9-30-3-8
Failure to pay Suspension per Indiana Code 34-4-32-4(g)

STATE OF INDIANA)
) ss:
COUNTY OF MONROE)

IN THE MONROE CIRCUIT COURT
Case No: 53 CO5 9711 IF 07836

Officer Andy Stephenson,
Indiana University Police Department,
Plaintiff,
vs
Lynn D. Johnston,
Defendant.

FILED
JAN 09 1998
CLERK MONROE CIRCUIT COURT

CLAIM OF APPEAL

Pursuant to US District Court Judge Larry J. McKinney's "ORDER OF REMAND[1] and Entry Discussing Removal of Action and Directing Remand"[2] wherein the federal court noted as BACKGROUND (page 1) and as DISCUSSION (page 3) that:

> ...the resolution of that case [in Monroe County] was a "fraudulent default entry order....; and that
>
> [I]t is not enough to support [28 United States Code] § 1443(1) to allege or show that the defendant's federal equal civil rights have been illegally and corruptly denied by state administrative officials in advance of trial, that the charges against the defendant are false, or that the defendant is unable to obtain a fair trial in a particular state court....The civil rights removal statue does not require and does not permit the judges of the federal courts to put their brethren of the state judiciary on trial. Under § 1443(1), the vindication of the defendant's federal rights is left to the state courts except in the rare situations where it can be clearly predicted by reason of the operation of a pervasive and explicit state or federal law that those rights will inevitably be denied....

and pursuant to Judge McKinney's suggestion of the appropriateness of allowing the state court appellate procedures to run their course in such circumstances as Defendant Johnston's ("State courts normally are presumed capable of protecting federal constitutional and statutory rights" [at page 3]), Defendant hereby CLAIMS AN APPEAL from the December 18, 1997 Entry of Judgment lying against here in

7

the Monroe County Court. Additionally BE IT SO RECORDED that Defendant Johnston's payment of the Claim of Appeal fee, Certified Record fee, and all other financial and other burden borne as a direct or indirect result of the misconduct underlying this matter, ARE ENDURED UNDER THE MOST STRENUOUS PROTEST.

Friday January 9, 1998

/s/ Lynn Johnston

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[1] Related to Defendant's January 2, 1998 NOTICE OF REMOVAL of the above identified criminal case, US DISTRICT COURT No. IP 98-0004-C-m/s.

[2] Mailed January 7, 1998 from Indianapolis and received January 8, 1998.

CERTIFICATE OF SERVICE

I hereby certify under penalty of perjury that I have today, Friday, the 9th day of January, 1998 hand delivered a copy of my foregoing CLAIM OF APPEAL to the Monroe County Prosecutor's Office, 301 N. College, Bloomington, IN, with the same being sealed in an envelope marked "Attention: Deputy Prosecutor Myrna Love, Director of Infractions Diversion Program."

/s/

Lynn Johnston
816 Auto Mall Rd #243
Bloomington, IN 47401

STATE OF INDIANA)
) ss:
COUNTY OF MONROE)

IN THE MONROE CIRCUIT COURT
Case No: 53 C05 9711 IF 07836

Officer Andy Stephenson,
Indiana University Police Department,
Plaintiff,
vs
Lynn D. Johnston,
Defendant.

FILED
JAN 09 1998
CLERK MONROE CIRCUIT COURT

To the Clerk of the Monroe County Court

Praecipe for
Transcript of the Record on Appeal

Your are hereby requested to prepare and certify a complete transcript of the entire record of the above entitled case, to be used on appeal to the Indiana Court of Appeals.

Friday, January 9, 1998

/s/ Lynn Johnston
Lynn Johnston

CERTIFICATE OF SERVICE

I hereby certify under penalty of perjury that I have today, Friday, the 9th day of January, 1998 hand delivered a copy of my foregoing Praecipe for the Transcript of the Record on Appeal to the Monroe County Prosecutor's Office, 301 N. College, Bloomington, IN, with the same being sealed in an envelope marked "Attention: Deputy Prosecutor Myrna Love, Director of Infractions Diversion Program."

/s/ Lynn Johnston
Lynn Johnston
816 Auto Mall Rd. #243
Bloomington, IN 47401

STATE OF INDIANA, MONROE COUNTY, ss:

I, the undersigned, Clerk of the ..CIRCUIT.. Court of Monroe County, in the State of Indiana, do hereby certify that the foregoing is a true and complete copy of the proceedings had in said Court, and entered on the records thereof, in the above entitled cause, on the day and year first aforesaid, as appears of record in my office.

IN TESTIMONY WHEREOF, I hereunto subscribe my name and affix the seal of said Court, at my office, in the City of Bloomington, this ...18TH..... day of ...JUNE..... ,1999...

.....Pat Harley.....

Clerk ..Circuit... Court Monroe County

00 123

123

STATE OF INDIANA) IN MONROE CIRCUIT COURT V

COUNTY OF MONROE) CAUSE NO 53C05 9811 IF 07836

STATE OF INDIANA VS LYNN JOHNSTON

JUDGE'S CERTIFICATE

BE IT REMEMBERED That on the 22nd day of September, 1999, defendant tendered to the Hon. Douglas R. Bridges, Judge of Monroe Circuit Court V, State of Indiana, the attached and foregoing Record of Proceedings, requesting the same be signed, sealed and allowed and filed as a correct Transcript of Proceedings of the above cause.

AND SAID TRANSCRIPT OF PROCEEDINGS having been examined by said Judge, is found and adjudged to be a complete Transcript of Proceedings and should be and accordingly is now signed and allowed this 22nd day of September, 1999, and the same is ordered made a mercery paper and a part of the record in this cause and the Clerk of this Court is ordered to file same and certify said Transcript for appeal in the Court of Appeals of Indiana.

IN WITNESS WHEREOF, I have hereunto set my hand this day and year above written.

Douglas R. Bridges, Judge
Monroe Circuit Court

(SEAL)

143

STATE OF INDIANA) IN THE MONROE CIRCUIT COURT V
) SS:
COUNTY OF MONROE) CAUSE NO. 53C05 9711 IF 07836

STATE OF INDIANA
VS
LYNN JOHNSTON

REPORTER'S CERTIFICATE

I, Melissa B. Starry, Official Court Reporter of the Monroe Circuit Court V, State of Indiana, do hereby certify the foregoing manuscript to be a verbatim transcript of the jury trial held on March 26, 1998 conducted in the Monroe Circuit Court the Honorable Douglas R Bridges, Judge, Presiding.

IN WITNESS WHEREOF, I HAVE HEREUNTO SET MY HAND AND SEAL THIS 20TH DAY OF SEPTEMBER, 1999.

Melissa B. Starry
Official Court Reporter
Monroe Circuit Court V

SEAL
INDIANA
MONROE CIRCUIT COURT

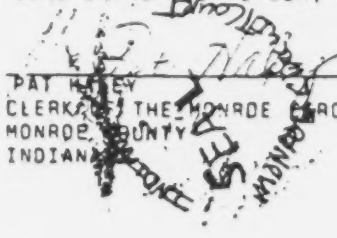
00 139

I, PAT HALEY, CLERK OF THE MONROE CIRCUIT COURT OF MONROE COUNTY, HEREBY CERTIFY THAT THE FOREGOING RECORD OF PROCEEDINGS, ALL A REQUESTED BY THE FOREGOING PRAECIPE, CONSISTS OF I VOLUME AND A SEPARATE TABLE OF CONTENTS.

VOLUME ONE OF THE RECORD OF PROCEEDINGS PAGES 1-144, CONTAINS TRUE, CORRECT AND COMPLETE COPIES OF ALL PERTINENT PLEADINGS, MOTIONS, AND OTHER PAPERS, AS WELL AS ALL ORDERS AND ENTRIES UP TILL THE TRIAL.

I FURTHER CERTIFY THAT THE PROCEEDINGS AT TRIAL WAS FILED IN MY OFFICE ON THE 22ND DAY OF SEPTEMBER, 1999.

I WITNESS HEROF, I HAVE HEREONTO SET MY HAND AND AFFIXTED THE SEAL OF SAID COURT, AT MY OFFICE IN THIS CITY OF BLOOMINGTON, THIS 22ND DAY OF SEPTEMBER, 1999.



PAT HALEY
CLERK OF THE MONROE CIRCUIT COURT
MONROE COUNTY
INDIANA

144

STATE OF INDIANA)
) SS:
COUNTY OF MONROE)

IN THE MONROE CIRCUIT COURT

CAUSE NO. 53C05 9711 IF 07836

STATE OF INDIANA

vs.

LYNN D. JOHNSTON

JURY TRIAL ORDER

State of Indiana appears by Jeffrey Kehr and the defendant fails to appear for jury trial this date. The State waives opening statements and witnesses were sworn and evidence heard. The State of Indiana rests and the Jury retires to deliberate.

The Jury returns with the following verdict: We, the Jury, find the State of Indiana has PROVEN its case against LYNN D. JOHNSTON on the offense of NO OR EXPIRED VEHICLE REGISTRATION, a class C Infraction.

The Jury is dismissed and the Court now sentences the defendant to pay a fine of $124.50 plus costs of $75.50, and the cost of assembling the jury of $300.00 because of defendant's failure to appear. Further, the Court now issues a warrant for the arrest of the defendant for failure to appear with CASH BOND of $500.00.

Further, the Court now directs the Clerk of the Court to notify the Bureau of Motor Vehicles of defendant's failure to appear.

SO ORDERED THIS 26th DAY OF MARCH, 1998.

Douglas R. Bridges

Douglas R. Bridges, Judge
Monroe Circuit Court Division V

Distribution to

RIO
File
All Parties

Transcribed *from the audio cassette recording* of the March 26, 1998 Jury Trial *provided* to Defendant-Appellant Johnston *by* Judge Bridges' *Court Reporter Melissa B. Starry*
The TAPE is identified as "JT4-98-CO55/11m" at p.3 of the 8-26-98 Chronological Case Summary

In the matter of The State of Indiana / Officer Andy Stephenson, Indiana University Police Department, Plaintiff, versus Lynn D. Johnston, Defendant.

NOTE: The significance of this immediate pre-trial colloquy of male voices is that (1) there is a awareness among them of Defendant's prior (January 9, 1998) Claim of Appeal, (2) the Judge makes the admission of a "furious" disposition toward Defendant and "not wanting to push anything to protest," (3) there the instruction by the Judge to NOT "put it under criminal" as "there is no application in here," (4) there is the announcement that "salt and pepper are on" courtesy of "the good people at B&E" (which is "professional undercover jargon" indicating surreptitious breaking and entering of the target's premises (presumably Defendant-Appellant Miss Johnston) for placement of covert surveillance or "bugging" equipment, and (5) there is a decision by the Judge to proceed with "a trial" in the absence of the Defendant. The following transcription involving unidentified female voices believed to be regular court personnel, and 3 males voices identified in the officially certified transcript of "the trial" as Deputy Prosecutor Kehr, Cop Stephenson, & Judge Bridges all 3 of which are identified below only as a male voice.

<u>Transcript of the Monroe County Court March 26, 1998</u>
<u>"Jury Trial-In-Absentia" Immediate Pre-Trial</u>
<u>"Off the Record" Colloquy</u>

Male voice: [unintelligible]...,if she' not going to be here we don't even have to

broach that subject. (male voice laughter).

[unintelligible male voices]

Male voice: We're waitin. [distant unintelligible male voice]...**don't put it under**

criminal, there is no application in here.

Male voice: **I don't think that if perhaps she wrote it, and on that stretch of the imagination that it would be valid, the whole thing is making me feel furious...,uhm and then**

Female voice: Is she suppose to be coming?

Male voice: uhm, she is voluntarily absentisming today. She called in and said she may be here or she may not.

Female voice: Aaouh!

Female voice: Hey, this is NOT a standard operating procedure.

Female voice with sarcastic intonation: Well, I'm sorry.

Female voice: Hee-hee (laughing)

Female voice: (growling-snarling cat/dog like noise made as if in mockery)

Same male voice continues: we've got ta,

[unintelligible]

Same male voice continues: no [unintelligible]

Female voice [unintelligible] Do I need to get this on the tape....

Male voice: Ordinarily you're not required to write it down.

Female voice: Ok.

Female voice [unintelligible]...maybe you'd like a break'"get this wrote down.

Male voice: **Um the good people at B and E inform me that salt and pepper are on.**

Male voice: This is, are we on? [Start of formal record, see R. 125, Tr. line 7]

Female voice: Yes.

Same male voice: This is 53 C0591 or 9711 IF 736, the state, the state of Indiana versus Lynn D. Johnston. This matter has been set for trial by jury at this time. I show present the state of Indiana by its Deputy Prosecuting Attorney Jeff Kehr. The Defendant has elected not be be present. The trial will be conducted to the Jury in her absence. Please bring the Jury in.

[unintelligible voices and laughter]

Soft female voice: All rise please.

Male voice: ugh, in the box.

[unintelligible male voice and seating noises]

Male voice: Please be seated. Good morning ladies and gentlemen. My name is

Douglas R. Bridges. I'm a Judge of the Monroe County Circuit Court and I'll be

presiding over a jury trial....

CERTIFICATION OF TRANSCRIPTION

I, Lynn Johnston, Defendant-Appellant in the above-identified "civil infraction" matter hereby certify under penalty of perjury that have spent hours listening, re-listening and transcribing the foregoing from the above identified audio cassette, and that I have put forth my best efforts in so doing and believe the foregoing transcription is as good as possible without having a professional audio equipment expert "clean-up" the background noise. I have had pre-trial colloquy professional listened to and evaluated by an expert in the field, and I believe I am reliably informed that a finer quality of sound is possible, should it become necessary.

Thursday October 21st, 1999 /s/ Lynn Johnston
Miss Lynn Johnston

[Copy of the March 26 1998 9 a.m. jury trial transcript pages 124 to 139 (with the jury going out at 9:28 a.m. and returning at 9:32 a.m., including the jury discharge and the immediately following proceeding *in the nature of entry of judgment*) reported and certified at pages 124, & 142 to 144 as the one volume Monroe County Record by County Clerk Haley, Official Court Reporter Starry, and Judge Bridges, for September, 1999 review at the Indiana Court of Appeals under case # 53 AO1-9909-CR-325.]

STATE OF INDIANA) IN THE MONROE CIRCUIT COURT V
) SS:
COUNTY OF MONROE) CAUSE NO. 53C05 9711 07836

STATE OF INDIANA
VS
LYNN JOHNSTON

TRANSCRIPT

JURY TRIAL
MARCH 26, 1998

HONORABLE DOUGLAS R. BRIDGE, JUDGE
MONROE CIRCUIT COURT

PRESENT: STATE OF INDIANA, BY DEPUTY PROSECUTING ATTORNEY JEFFREY KEHR
DEFENDANT - ABSENT

The following is the jury trial held in the matter of the State of Indiana versus Lynn Johnston, under cause number 53CO 9711 IF 07836, in the Monroe Circuit Court Division V, the Honorable Douglas R. Bridges, presiding on March 26, 1998.

THE COURT: This is, are we on, this is 53CO5 9711 IF 7836, State of Indiana versus Lynn D. Johnston. This matter's been set for trial by jury at this time. Show present the State of Indiana by its deputy prosecuting attorney Jeff Kehr, the defendant has elected not be present. The trial will be conducted to the jury in her

absence. Please bring the jury in.

Bailiff: All rise please.

VENIRE ENTERS THE COURTROOM

THE COURT: Please be seated. Good morning ladies and gentlemen, my name is Douglas R. Bridges and I'm a Judge of the Monroe Circuit Court and I'll be presiding over a jury trial that will probably will break all records for the short period of time it takes to complete. The matter that we are here to resolve is the State of India versus Lynn D. Johnston. It involves a traffic citation for displaying no registration plate on the rear of her vehicle. Your were summoned as jurors because she requested a jury trial on that matter, and under our law she is entitled to that privilege. Would all of you who have been called for jury duty please stand and raise your right hand. Do you and each of you swear or affirm that that you true answers make to the questions propounded to you by court or counsel touching your qualifications as jurors in this case?

VENIRE: I will [en masse]

THE COURT: Mr. Sinn is there any reason you can think of why you should not sit here as a juror over the next few minutes to hear this case?

Mr. Sinn: No sir.

THE COURT: Mr. Daughtery, how about you?

Mr. Daughtery: No.

THE COURT: Ms. Daggy, do you know of any reason why your shouldn't be selected as a juror in this case?

Ms. Moore: Actually my name is Miss Moore, Ms. Daggy's not here.

THE COURT: I'm sorry.

Bailiff: Judge, sorry, [Bailiff hands the court the names of the venire who did not appear for service]

THE COURT: Oh, ok.

Ms. Moore: And no, I don't know of any reason.

THE COURT: Oh, I see, no that's wrong too. You're Kara Moore?

Ms. Moore: Yes.

THE COURT: You're Stella Bruce?

Ms. Bruce: Yes. And I see no reason why I couldn't.

THE COURT: Ok. Your Donald Fowler? Is there any reason why Mr. Fowler we shouldn't keep your here to be a juror in this case?

Mr Fowler: Not that I know of.

THE COURT: And you're Martha Holder?

Ms. Chesterfield: Alicia Chesterfield.

THE COURT: Oh, ok. Ms. Chesterfield is there any reason why we should not keep you as a juror in this case?

Ms. Chesterfield: No.

THE COURT: State have any questions?

MR. KEHR: Just briefly, your honor. Good morning ladies and gentlemen.

VENIRE: Good Morning.

MR. KEHR: I note that some of you here, your jury service has been long indeed and its just about over here. This case centers around having no license plate on a vehicle. Is there anyone here that thinks it would be permissible to drive around without a license plate? Any one at all? Thank you.

THE COURT: Does the State have any strikes?

MR. KEHR: NO strikes your honor.

THE COURT: Ladies and gentlemen you've been selected to be the jurors in this case. That being the case, the three of you in the back of the courtroom are free to leave at his time. I thank you for your attention to this matter and your willingness to come in here today. If you need evidence that you're been here today, Barbara Webb will be glad to provide that to you or the jury coordinator in room 301 can do so. If you happen to have a parking ticket, and I can't imagine that would happen yet, but if your did get a parking ticket for being here, if you'll bring that back to either Barb Webb or the jury coordinator will ask the City to forgive your paying the ticket. . You're free to go, thank you. Ladies and gentlemen, will you please raise your right hand. Do you and each of you swear of affirm you will fair and truly try the issues in this case and thereafter retire to deliberate in fairness to both sides? If so said I do.

JURY: I do [en masse]

THE COURT: State may begin its presentation.

MR. KEHR: Thank you, your honor, we waive opening statement.

THE COURT: Ok, you may call your first witness.

MR. KEHR: Thank you Judge. The State calls officer Andy Stevenson.

THE COURT: Please come up here.

ANDREW STEVENSON: after first being duly sworn to testify the truth, the whole truth and nothing but the truth, was examined and testified as follows:

DIRECT EXAMINATION OF ANDREW STEVENSON BY JEFF KEHR, DEPUTY PROSECUTING ATTORNEY

Q: Sir, please state your name.
A: Andrew Michael Stevenson.
Q: And what's your place of employment?
A: The Indian University Police Department.
Q: How long have you been so employed?
A: Approximately three years.
Q: And were you working in your capacity as an Indiana University Police Officer on the 24th of November, 1997?
A: Yes, I was.
Q: And on that date, were you in uniform sir?
A: Yes.
Q: And did you have an occasion to come into contact with a Lynn D. Johnston?
A: Yes, I did.
Q: And is Miss Johnston present in the courtroom today?
A: No she's not.
Q: Could you describe Miss Johnston for us?
A: Ah yes, she was a white female, approximately 50 to 60 years of age.
Q: Would you please read some identifiers for us please sir.
A: White female, fifty years of age, 5'4", 145.
Q: Do you have an operator's license number?
A: Yes, I do.

Q: Would you please read that?
A: 01 302 420 93.
Q: This information that you have did you take that from a valid Indiana driver's license on the date of the stop?
A: Yes, I did. defendant? Yes, it did.
Q: And that had her picture on it?
A: Yes, it did. / A: and did that photo match the /
Q: Thank you. Now sir, what drew you attention to Miss Johnston on that date?
A: I saw a vehicle at the intersection of Atwater and Woodlawn without a license plate.
Q: Ok, Where was this vehicle traveling?
A: It was east bound on Atwater, we were at the stop light at Atwater and Woodlawn and she had pulled up beside us.
Q: When you said no license plate, was there any paper tag or any dealer tag or anything at all to identify the registration of the vehicle?
A: No there wasn't.
Q: Did you subsequently make a stop of the vehicle?
A: Yes I did.
Q: And where was this at?
A: It was Atwater and Faculty.
Q: Ok. Did you make contact with the driver?
A: Yes I did.
Q: And what were the events of that?
A: I explained to her that I had stopped her vehicle because she did not have a license plate on the back. She stated that she was aware of that, she produced a tape recorder intending to record our conversation. She stated that she'd been driving without a license plate since December of '96. She stated she unable to get a license plate because the Bureau of Motor Vehicles required that she give them her social security number which, she told me at the time, that she did not have a social security number, she said she'd withdrawn form social security in the late 1970's.

Q: At this time I would like the Court to take

judicial notice of the statute that requires an individual to provide their social security number for registration.

THE COURT: Ladies and gentlemen, I.C. 4-4-8-1 reads as follows "no individual may be compelled by any State Agency, board, commission, department, bureau or other entity of State Government, referred to as State Agency in this chapter, to provide the individual's social security to the State agency against the individual's will, absent federal requirement to the contrary. However, the provision of this chapter do not apply to the following: .. (b) the Bureau of Motor Vehicles many, not withstanding this chapter, require the following: 1) that an individual include the individual's social security number in an application for an official certificate of title for any vehicle required to be titled under this, Under I.C. 9-17; and (2) that an individual includes the individual's social security number on an application for registration of the vehicle."

Q: Sir, did you subsequently issue a citation to Miss Johnston?

A: Yes, I did. I cited her for no registration plate.

Q: And did all these events occur here in Monroe County, Indiana?

A: yes.

Q: Thank you, nothing further. And the State would rest.

THE COURT: You may step down. Does the State wish to make a statement?

MR.KEHR: Just briefly, your honor. Ladies and gentlemen, you've heard the testimony here today. Officer Stevenson indicated that he stopped Miss Johnston, she was driving on Atwater, she was eastbound, she was here in Monroe County, she did not have a plate on her vehicle as required. So I ask that you return a verdict of guilty for a C Infraction, of no license plate. Thank you.

THE COURT: Ladies and gentlemen your are about to be taken to the jury room to deliberate on your verdict. I would inform your that under I.C. 9-18-2-26 the statute

requires that a license plate shall be displayed as follows for every vehicle, upon the rear of the vehicle , a license plate shall be security fastened in a horizontal position to the vehicle to which the plate is issued. Under I.C. 9-18-2-40 a person who violates this chapter commits a class C infraction. I would also instruct you that infractions are not criminal offenses, they are a violation of regulations concerning the operation of a vehicles on public highways. Having said that would you come forward please. [To Bailiff] I am supplying you with two verdict forms, on informing you, one which would show that the State has proven the charge against Lynn D. Johnston, the other showing that the State has not proven the charge against Lynn D. Johnston. You need select one person as foremen of the jury in order to preside over the deliberations and sign the verdict form that you all agree too. [To Bailiff] Do you agree to take this jury to a jury room where they may deliberate without interruption from you or any one else and at the time they inform you they have a verdict, you will return them into open court on the court order?

Bailiff: I do.

THE COURT: Please take the jury out.

Bailiff: All rise please.

JURY OUT: 9:28 a.m.

JURY RETURNS: 9:32 a.m.

THE COURT: Please be seated. Ms. Bruce it would appear you've been selected foreperson of the jury, has the jury reached a verdict.

Ms. Bruce: Yes, we have.

THE COURT: Would you hand the forms to the bailiff please. Verdict: We the jury find the State of Indiana has proven its case against Lynn D. Johnston on the offense of no or expired vehicle registration, a class C Infraction, dated 3-26-98, signed Stella M. Bruce. Ladies and gentlemen of the jury is the verdict of each and everyone of you?

JURY: Yes sir [en masse]

THE COURT: I would like to thank you for your attention to this matter. And am glad that our are able to be away from here so quickly this day. Its gonna be a beautiful day, and maybe some of you will have a chance to enjoy it more than going to work. You're free to go with the same instruction that if you need evidence of your presence, Barb can provide that to you, and if you've got a ticket; bring to us.

Bailiff: All rise, please.

THE COURT: Upon the jury's verdict the court now enters judgment that the State has proven the allegation no registration plate against Lynn D. Johnston, the court will impose a fine of $124.50 plus costs, the court will also require the defendant to pay the costs assembling a jury which is $262.50 because of her failure to appear for trial. The court will further issue a warrant for the defendant's arrest because she failed to appear for trial. Will direct the clerk to notify the Bureau of Motor Vehicles of the defendant's failure to appear and will set a bond in the amount of $462.50, cash only.

END OF PROCEEDING

CERTIFICATION OF
INDIANA ABSTRACT
OF COURT RECORD

State Form 42897 (R/12-91)
APPROVED BY STATE BOARD OF
ACCOUNTS, 1992

= FAIL TO PAY X FAIL TO APPEAR
= PAYMENT = REOPENED
= AMENDMENT TO EXISTING BMV RECORD
= DISMISSED = TICKET SUBSTITUTE

Driver's License Number	State	Date of Birth
01302420933	Indiana	5-3-47

Name (first, middle, last)	Vehicle Type	Hazmat
Lisa D. Johnston	= Commercial X Private	= Yes X No

Street Address	City	State	Zip
816 Auto Mall Rd. #243	Gary	Ind.	46406

Original Offense - Code / Description	Original IC No
No Fog Lights	9-18-2-29

Amended Offense - Code / Description	Amend IC No

Offense Date	Offense Time	Court Disposition Date	BAC	Drugs? Y=Yes N=No
11-24-97		3-26-98		N

Court Code / Name	Court Case Number
53 Cor	97IIF07836

Court Finding: G=GUILTY N=NOT GUILTY T=DEFERRED P=NOLLE PROS D=DISMISSED V=NON-POINTABLE

DRIVING PRIVILEGES ORDERED SUSPENDED FOR [ ] ☐ D=DAYS Y=YEARS

OWI STAY TIME ORDERED [ ] ☐ D=DAYS Y=YEARS

PROBATIONARY DRIVING PRIVILEGES ORDERED FOR 180 DAYS ☐ Y=YES N=NO

BMV LAW ENFORCEMENT AGENCY ID (MUST BE COMPLETED BY COURT)	OFFICER BADGE NUMBER
IUPD	84

FINE	COST	PAYMENT DATE

This abstract is a certification of records to the Commissioner of the Indiana Bureau of Motor Vehicles as prescribed by Indiana Code 9-25-6-8

Pat Healy — Signature
Clerk — Title
3-26-98 — Date

Faxed to BMV on 3-26-98 at 2:50 PM.

CHRONOLOGICAL CASE SUMMARY
INFRACTION, MONROE CIRCUIT COURT DIV V

FOR CAUSE NO: 53C05 9711 IF 07836
ST V LYNN D JOHNSTON
THE HONORABLE DOUGLAS R BRIDGES

ACTION:
CT 1: NO OR EXPIRED VEHICLE REGISTRATION
9-18-2-29
Class C Infraction

DATE FILED: 11/26/1997

ENTRY/FEE BOOK: PAGE:
BOOK: 0 PAGE: 0
BOOK: 0 PAGE: 0

ATTORNEYS

PARTIES

1854 55 CARL SALZMANN
MONROE COUNTY PROSECUTING ATTY
301 N COLLEGE AVENUE
BLOOMINGTON IN 47401
812-333-3670

PLAINTIFF
STATE OF INDIANA

DEFENDANT
LYNN D JOHNSTON
816 AUTO MALL ROAD #243
BLOOMINGTON IN 47401

FINANCIAL INFO

PAYOR: LYNN JOHNSTON

COURT COSTS - STATE	$49.00
COURT COSTS - COUNTY	$21.00
INFRACTION JUDGMENTS	$124.50
LAW ENFORCEMENT CONT ED	$3.00
HIGHWAY WORKZONE FEE	$0.50
JURY FEES	$300.00
JURY PAY FUND	$2.00

CHRONOLOGICAL SUMMARY OF FILINGS AND PROCEEDINGS

11/26/1997 Notice: N RJO: N

Infraction violation filed. Initial hearing set for 12/04/97 at 1:00 PM
Defendant notified by receipt of citation. MSL

State of Indiana
SEAL
OF THE
STATE OF INDIANA
1816

BRIAN BISHOP
CLERK OF THE INDIANA SUPREME COURT
COURT OF APPEALS AND TAX COURT

217 STATE HOUSE
Indianapolis, IN 46204
(317) 232-1930
FAX(317) 232-8365

JOHNSTON, LYNN D.
816 AUTO MALL RD. #243
BLOOMINGTON, IN 47401

Cause Number
53A01-9909-CR-00325
Lower Court Number:
53 CO 59711 IF 7836

JOHNSTON, LYNN D. -V- STATE OF INDIANA

You are hereby notified that the SUPREME COURT has on this day 1/19/00 APPELLANT'S PETITION TO TRANSFER IS HEREBY DENIED.

RANDALL T. SHEPARD, CHIEF JUSTICE
ALL JUSTICES CONCUR. KM

WITNESS my hand and the seal of said Court, this 19th day of JANUARY, 2000.

/s/ (Brian Bishop)
Clerk Supreme Court,
Court of Appeals and Tax Court

IN THE
COURT OF APPEALS OF INDIANA

(Court-Clock Stamped 4:52)
FILED
NOV 23 1999
Brian Bishop
CLERK OF
THE INDIANA
SUPREME COURT
COURT OF APPEALS
AND TAX COURT

LYNN D. JOHNSTON)
)
Appellant,)
vs.)
)
STATE OF INDIANA,)
Appellee.)
)

ORDER

Comes now the Appellant, Pro Se, and files herein Motion to Belatedly Proceed with January 9, 1998 Praceiped Claim of Appeal & Discretionary Review of Subsequent Trial Court Proceedings & Documents as Praceiped June 18, 1999, and July 12, 1999, with Affidavits & Other Support, which said Motion is in the following words and figures, to-wit:

(H.I.)

And the Court, having examined said Motion, having examined the attachments thereto, and being duly advised, now finds that said Motion presents nothing upon which this Court can grant relief for the reasons that the Appellant has failed to invoke the jurisdiction of this Court by timely filing the record of the proceedings or a Petition for Extension of Time Within Which to File the Record following the filing of her initial praecipe and her subsequent praecipes were filed more than thirty (30) days after the trial court order of March 26, 1998, following her jury trial.

IT IS THEREFORE ORDERED that the Appellant's Pro Se Motion to Belatedly Proceed is denied and this attempted appeal is dismissed.

ORDERED this 23rd day of November, 1999.

/s/ (John Sharpnack)
Chief Judge

UNTIED STATES DISTRICT COURT
SOUTHERN DISTRICT OF INDIANA
INDIANAPOLIS DIVISION

LYNN DIANE JOHNSTON	)	
Petitioner,	)	No. IP 98-1012-C-T/G
vs.	)	
RANDY WILLIAMSON (Sheriff)	)	
Respondent.	)	

ENTRY DIRECTING FURTHER PROCEEDINGS

The petitioner is directed to **supplement** her petition for a writ of habeas corpus **not later than September 8, 1998,** in the following respects:

1. The petitioner shall submit a copy of the final judgment (including sentence) issued by the Monroe Circuit Court in No 53 C 05 9711 IF 07936 on March 26, 1998.

2. The petitioner shall submit the chronological case summary in No. 53 C 95 9711 IF 07936.

IT IS SO ORDERED

/s/_____
John D. Tinder, Judge
United States District Court

Date: 8/7/98

Copies to:

Lynn D. Johnston
816 Auto Mall Road #243
Bloomington, IN 47401

Lynn D. Johnston
Monroe County Jail
301 N. College Avenue
Bloomington, IN 47404

[caption omitted]

ENTRY DISCUSSION
PETITION FOR WRIT OF HABEAS CORPUS

This cause is before the court on the petition of Lynn Diane Johnston ("Johnston") for a writ of habeas corpus and on the supplement to such petition.

Johnston challenges the validity of the determination by the Monroe Circuit Court in a proceeding docketed as No. 53 C05 9711 IF 07936, this action cannot proceed. The reason is that Johnston was sanctioned with a fine only and the Seventh Circuit has held, as have most other circuits, that a fine-only conviction is not considered a sufficient restraint on individual liberty to constitute "custody" within the meaning of the habeas corpus statute. See *Hanson v. Circuit Court*, 591 F.2d. 404, 407 (7th Cir. 1979).

Although Johnston does not directly challenge her incarceration, such a challenge may have been intended in bringing the present action. If so, the challenge could not proceed in this forum at present because Johnston has not challenged the finding of contempt beyond the trial court. This means that she has an available and meaningful remedy in the Indiana courts. That remedy is an appeal. *Hancz v. City of South Bend*, 691 N.E.2d 1322 (Ind.App. 1998); *Holly v. State of Indiana*, 681 N.E.2d 1176 (Ind. App. 1997). The existence of that remedy renders the present action premature to the extent that Johnston's petition or supplement could be construed to challenge the finding of contempt which has resulted in her incarceration in the Monroe County Jail. "The purpose of exhaustion is not to create a procedural hurdle on the path to federal habeas court, but to channel claims into an appropriate forum, where meritorious claims may be vindicated and unfounded litigation obviated before resort to federal court." *Keeney v. Tamayo-Reyes*, 112 S. Ct. 1715, 1720 (1992). The only manner in which that purpose can be served is by dismissing this action, without prejudice, and allowing Johnston to proceed with her claims in the Indiana courts.

Judgment consistent with this Entry shall now issue.

IT IS SO ORDERED.

/s/ _____
John D. Tinder, Judge
United States District Court

Date: 9/11/98

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF INDIANA
INDIANAPOLIS DIVISION

LYNN DIANE JOHNSTON)
Petitioner,) No. IP 98-0621-C-H/G
vs.)
BUREAU OF MOTOR VEHICLES, et al.,)
Respondent.)

ENTRY DISCUSSING SELECTED MATTERS

The court, having reviewed the above action, now makes the following rulings:

1. The clerk is directed to copy and distribute the plaintiff's filing of August 17, 1998, with this Entry.

2. The plaintiff's motion to hold proceeding in abeyance was filed several days after the action was dismissed without prejudice based on the plaintiff's unexplained failure to submit an amended complaint. Although the disposition in this action did not adjudicate the merits of the plaintiff's request for that unusual relief must therefore be denied.

So ordered.

Date: 8-20-98 /s/_____
DAVID F. HAMILTON, Judge
United States District Court

51

FILED

AUG 4 1998

U.S. DISTRICT COURT
INDIANAPOLIS, INDIANA

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF INDIANA
INDIANAPOLIS DIVISION

LYNN D. JOHNSTON, Plaintiff,	)	CAUSE NO.
v.	)	IP 98-0621-C-H/G
BUREAU OF MOTOR VEHICLES, et al., Defendants.	)	

ENTRY DISCUSSING SELECTED MATTERS

The court, having reviewed the above action, now makes the following rulings:

1. The plaintiff has failed to submit an amended complaint as directed in Part II of the Entry issued on May 12, 1998. The plaintiff's failure to so do represents her abandonment of the claims in this action.

2. Judgment dismissing this action for failure to prosecute, without prejudice, shall now issue.

So ordered.

Date: 8-4-98 /s/_____
David F. Hamilton, Judge
United States District Court

[caption omitted] **48**

JUDGMENT

The court, having this day made its Entry,

IT IS THEREFORE ADJUDGED that this cause of action is dismissed without prejudice

Date: 8-4-98 /s/_____
David F. Hamilton, Judge
United States District Court

Copies to:
Lynn D. Johnston
816 Auto Mall Road #243
Bloomington, IN 47401

William K. Steger
Monroe County Attorney
Courthouse, Room 220
Bloomington, IN 47404

OBV 44 PG 739 **49**
James L. Whitlatch
Bunger & Robertson
226 S. College Square
P.O. Box 910
Bloomington, IN 47402

[Docket #46 about 50 days prior to the 8-4-98 entry, defendants who conspired and retaliated by jailing Petitioner, "Appeared" via Judge Hamilton's former law business associate or mentor, Robert Johnstone who got NO COPY.]

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF INDIANA
INDIANAPOLIS DIVISION

LYNN D. JOHNSTON,	)	CAUSE NO.
Plaintiff,	)	
v.	)	
	)	IP 98-0621-C-B/S
BUREAU OF MOTOR VEHICLES, ET AL.,)		
Defendants.	)	

ENTRY DIRECTING FURTHER PROCEEDINGS

I.

We litigate in the federal courts today in the realm of "notice pleadings." "The purpose of a complaint is to inform the opposing party of the grourds upon which the Plaintiff's claim rest." *Archie v. Chicago Truck Drivers, 585 F.2d 210, 217 (7th Cir. 1978).* Nothing more. This point was reinforced by the Supreme Court in *Leatherman v. Tarrant Col. Narcotics Intelligence & Coordination Unit*, 113 S. Ct. 1160, 1161 (1993), when it explained:

> [t]he *Federal Rules of Civil Procedure* do not require a claimant to set out in detail the facts upon which he bases his claim. To the contrary, all the Rules require is "a short and plain statement of the claim: that will give the defendant fair notice of what the plaintiff's claim is and the grounds upon which it rests.

Fed.R.Civ.P. 8(a)(2) require that pleading contain "a short and plain statement of the claim showing that the pleader is entitled to relief...." Additionally, Fed.R.Civ.P. 8(e)(1) states that "[e]ach averment of a pleading shall be simple, concise, and

direct." "Taken together, Rules 8(a) and 8(e)(1) underscore the emphasis placed on clarity and brevity by the federal pleading rules." 5 Charles Alan Wright et al., FEDERAL PRACTICE AND PROCEDURE § 1217, at 169 (2d ed.1990).

It too often occurs in litigation that a complaint represents pleading overkill. The prolix and lengthy complaint in this case is an example of such a Leviathan. The consequence of such pleadings, if unchecked,

> exact an intolerable toll on the trial court's docket, lead to unnecessary and unchannelled discovery, and impose unwarranted expense on the litigants the court and the court's parajudicial personnel and resources. Moreover, justice is delayed for the litigants who are "standing in line," waiting for their cases to be heard. The courts of appeals and the litigants appearing before them suffer as well.

Cramer v. State of Florida, 117 F.3d 1258, 1263 (11th Cir. 1997).

Meaningful compliance with the requirements of Rule 8 is essential. "When a complaint does not comply with the requirement that it be short and plain, the court has the power to, on its own initiative,...dismiss the complaint." *Salahuddin v. Cuomo,* 819 F.2d 40, 42 *(2nd Cir.1988); see also Giuliano v. Everything Yogurt, Inc.,* 819 F. Supp. 240 246 (E.D.N.Y. 1993). Subject to the remedial opportunity in this case.

II.

Plaintiff Johnston is notified that her complaint violates both the letter and spirit of Rule 8. It is stricken. Plaintiff Johnston shall have through June 4, 1998,[•] in which to file an amended complaint and such amended complaint shall comply with the strictures of Rule 8 of the *Federal Rules of Civil Procedure* as explained in Part I of the Entry.

IT IS SO ORDERED.

/s/_____
SARAH EVANS BARKER, Chief Judge

Date: May 12, 1998

Copies to:

Lynn D. Johnston
816 Auto Mall Road #243
Bloomington, IN 474701

[* This date was extended to July 15, 1998 as a result of case re-assignment (June 10th) to Judge Hamilton (flowing from Petitioner's pleadings (docket #s 27-31) for recusal with vacatur of this complaint striking Order exposing Judge Barker's financial and advisory broad relationship with defendants, noting that these defendants did not file appearances (by Judge Hamilton's former law business associate or mentor) until June 15th, docket #46). On June 4th upon 15 summons returns (docket #s 11-26), 13 motions for entry of default judgment (for sums certain by calculation) were filed (docket #32-44). On June 16th (docket #47) Judge Hamilton denied the pending vacatur motion, allowing Petitioner to file an amended complaint by July 15, 1998. NEITHER BARKER NOR HAMILTON QUASHED the SUMMONS. The docket (#s 8, 9, & 11) records only 2 defendants filed appearances (and only 1 of filed for an extension of time to answer the complaint) prior to Petitioner's entitlement to take Judgment by Default. Inferences are to be drawn in light of this fact, construed with docket entries after #47 and in particular with #50 detailing from jail, Petitioner's retaliatory confinement upon refusal to re-write the complaint upon these same Barker and mentor tainted defendants' suggestion that only the BMV and hospital should be left in. See **Appendix D**, July 15th, July 23rd, Aug. 17th, 1998 documents].

53C05 .1 IF 07836 Filed: 11/26/19.
ST V LYNN D JOHNSTON
App. Date: 12/04/1997 Time: 01:00 PM
DOB: 05/03/1947 Fines/Costs: $82.50

NO OR EXPIRED VEHICLE REGISTRATION

12-4-97 N.G. (stand mote).
Set for trial at 9:00 a.m.
~~on~~ Jan. 9. 1998.

12-4-97 filed Appearance Form
~~Refused to sign~~

12-8-97 request Jury Trial

Monroe Circuit Court

Division V
Justice Building
301 North College Avenue
Bloomington, Indiana 47404-3865

Douglas R. Bridges, Judge
Melissa B. Starry, Official Court Reporter
Joy Miller, Associate Court Reporter
Lindy Moscrip, Associate Court Reporter

(812) 349-2634

January 7, 1998

Mr. Jeffrey Modisett
Attorney General
C553 Government Center South
402 W Washington Street
Indianapolis, Indiana 46204-2770

In Re: State of Indiana versus Lynn Johnston
Cause Number: 53C05 9711 IF 07836

Dear Sir:

Judge Bridges has requested that I forward the enclosed on to your office. It was received by the Clerk of Monroe County by certified mail on January 2, 1998. I have enclosed all documentation and CCS information from the infraction file.

Please do not hesitate to contact the undersigned if you need any further information.

Sincerely,

Melissa B. Starry
Official Court Reporter

cc: File
Defendant w/o enclosures

INFRACTIONS NOTICE
MONROE CIRCUIT COURT DIV V

ST V LYNN D JOHNSTON 53C05 9711 IF 07836

TO: LYNN D JOHNSTON
816 AUTO MALL ROAD #243
BLOOMINGTON IN 47401

ATTORNEYS	PARTIES
1854 55 CARL SALZMANN	PLAINTIFF STATE OF INDIANA
	DEFENDANT LYNN D JOHNSTON

01/09/1998

Defendant files To Clerk of Monroe County Court, Praecipe for Transcript for Record on Appeal. The court having reviewed same finds there are no appealable matters at this time. This cause remains set for jury trial on March 26, 1998 at 9:00 a.m. Notice to defendant by regular mail.
mbs

STATE OF INDIANA)
) SS:
COUNTY OF MONROE)

IN THE MONROE CIRCUIT COURT

CAUSE NUMBER: 53C05 9711 IF 07836

CANCELLED
BY ARREST

TO THE SHERIFF OF MONROE COUNTY, GREETINGS:

You are hereby commanded to arrest: LYNN D. JOHNSTON
816 AUTO MALL ROAD #243
BLOOMINGTON, IN 47401

DLN: 0130242093
SSN:
DOB: 5/3/47

PHYSICAL DESCRIPTION: WHITE FEMALE, 5'4", 145 LBS BLD/GRN

If he/she may be found in your bailiwick, so that you have his/her body before the Judge of Monroe Circuit Court Division V instanter, to answer to the State of Indiana on the following charges(s):

FAILURE TO APPEAR FOR JURY TRIAL
ORIGINAL INFRACTION: NO OR EXPIRED VEHICLE REGISTRATION

and abide the order of the Court thereon and return this warrant.

BAIL: $500.00 CASH ONLY

WITNESS THE CLERK AND SEAL OF SAID COURT ON March 24, 1998.

Pat Haley
Pat Haley, Clerk
Monroe Circuit Court

Served this 16th day of JULY, 1998.

Sheriff, _____, Indiana.

By: _____

00 011

STATE OF INDIANA) IN THE MONROE COUNTY COURT V
) SS: CAUSE NO. 53CO59711IF7836
COUNTY OF MONROE)

STATE OF INDIANA)
Plaintiff,)
vs.)
LYNN DIANE JOHNSTON)
Defendant.)

MOTION TO MANDATE PERFORMANCE OF MEDICAL DIAGNOSTIC SERVICES

Comes now the Monroe County Correctional Center, MCCC, by its Medical Coordinator, David Goodman, and would show the Court as follows:

1) That the Monroe County Correctional Center, MCCC, is an accredited jail medical facility by the National Commission on Correctional Health Care (NCCHC) and as such is governed by the published Standards for Health Services in Jails as published by the Commission in 1996.

2) Those standards mandate adherence to the Center for Disease Control (CDC) Standards of the Advisory Council for the Elimination of Tuberculosis (ACET).

3) ACET protocol stipulates that all inmates be screened for tuberculosis symptoms upon incarceration.

4) Inmate Johnston, date of Birth May 3, 1947, has refused to submit to the tuberculosis screening inoculation commonly referred to as PPD.

5) In lieu thereof, inmate Johnston in her writing of Sunday, July 19, 1998 represented that there was a potential for "allergic problems"" if such a screening test was administered and agreed to "submit to an x-ray for alleviation of your TB concerns" (see attached Exhibit A).

6) When transported by jail personnel to Southern Indiana Radiological Associates (SIRA) inmate refused to cooperate with the signing of medical consent forms and was thus returned

to jail since provider had no legal means to compel her cooperation.

7) Upon review of the circumstances the jail Medical Coordinator and the jail Medical Director, Dr. Tim Alward, jointly concluded that the health and welfare of the jail population dictates that this inmate be screened by use of a diagnostic x-ray.

2

THEREFORE, we respectfully move that the Honorable Judge Douglas R. Bridges execute this motion to mandate SIRA to perform the tuberculosis diagnostic chest x-ray on the above named inmate when presented to their facility by correctional personnel and to forward results of such diagnostic x-ray to the MCCC Medical Services Department, c/o David Goodman.

Respectfully Submitted,
/s/David L. Goodman, Medical Coordinator, MCCC
/s/ Tim Alward, MD, Medical Director, MCCC

This Court having examined said motion and being duly advised in the premises now grants the same.

THEREFORE ORDERED that the Defendant shall comply with the above motion and cooperate fully in obtaining the above referenced diagnostic x-ray.

So ordered this 30th day of July, 1998
/s/Douglas R. Bridges, JUDGE
MONROE COUNTY COURT V

[1st Un -Marked E X H I B I T record p. 16-17]

Message 5, (side 1) Sunday July 19,1998 +/- 7:10 pm

A. Yes, there is a serious potential for sever allergic problems, anaphalactic shock, etc., Also a problem with the standard treatments therefor.

B. I will submit to an x-ray for alleviation of your TB concerns, also a sputum sample should it be deemed appropriate. I am not a cougher.

C. I am here as a result of a invalid warrant for my arrest

for failure to appear, when I did and have documented my appearance pursuant to the summons. There is NO jail penalty for my alleged crime, & I was NOT represented by a lawyer at any stage of the proceedings, & I did NOT waive my rights. I will have been in custody 72 hours within about a hour, & have not been charged with any crime. The sheriff

(over)

(side 2)

is in violation of the Supreme Court holding in Argersinger vs. Hamlin by holding my[sic]. I should not have been arrested, & I should be released immediately.

(D) I do NOT intend to voluntarily submit to any examinations or medical treatment - other than physical examination for lice, scabbies & "crabs." You need to govern you conduct accordingly. If you elect to proceed wisely (and elect to motion for a court order) you will not undertake such action with Judges or others of Defendant status in my federal civil rights suit. County Counsel Steeger should be consulted. L. Johnston

page 17

[2nd Un-Marked EXHIBIT record p.18-19]

Cir. 5 [not Petitioner's writing]

Saturday, July 18, 1998

I refuse your medical tests, I will not consider anything except continued silence unless, until, & subsequent to my review of relevant law & possible consultation with qualified and appropriate legal authority; further Judge Bridges, Att. Kehr, and IU Cop Stephenson (the arresting officer) etc. are not suppose to have any contact with me, or I with them. They are Defendants & I am Plaintiff in Federal [...chopped off court provided copy] They are formally represented by County Counsel Steeger & Att. Johnstone of Barnes & Thornburg (Indianapolis). They are using the "County Housing" on me for retaliatory purposes. The warrant is a bogus nullity. I appeared pursuant to the summons Dec 4, 1997. The[re] has been a federal Removal, Remand with instruction to file a state court appeal & Judge/Clerk related tampering with the appeal records. They disappeared & Bridges conducted a trial in my absence (by law max. fine and revocation of license). Bridges issued the post trial warrant. The Fed. civil case documents all. Therefore with proofs. [... chopped off court provided copy].

[exact duplicate of prior pages]

[3rd Un -Marked EXHIBIT record p.21]

(side 2)

I am not a street person! Arrested by IU Cop Andy Stephenson Defendant in my federal civil rights lawsuit. Also Ju.[sic] Judge Bridges is not suppose to have any contact with me [... chopped off court provided copy] (Mann /Welch)

-- as per-- federal court rules.

I must put my safety 1st. Anaphalactic shock 15 to 20 [seconds] up to 20 hours ---This is a life/death systemic reaction.

Sunday +/- 10 am

(1) You do not know all facts or circumstances. (2) YES I have severe allergic problem & have had breathing distress since being put on this floor (3) Somebody needs to read to me all directions & precautions relative to these chemicals

[4th Un -Marked EXHIBIT record p.22]

Get a Medical Officer to EXPLAIN ANAPHALIC Shock to you

[5th Un -Marked EXHIBIT record p.23]

[... chopped off court provided copy]

Capt. Meyers Assistant & blond [... chopped off court provided copy] nurse, made a few minutes ago, to "cooperate" with the TB x-ray: (1) In order to obtain a measure of my cooperation - that is me not going limp or intentionally fluttering my lungs - during an x-ray, the following is necessary: (2) No more lying or attempted trickery to get me to believe you've gotten a bona fide court order when you haven't done so; (3) I must see & read (or be read) any such order; (4) such order must be signed in ink by the judge so ordering; (5) Because Judge Douglas Bridges is a Defendant in my May 7, 1998 civil rights suit & was served about May 11th and Judges Welch & Mann are named co-conspirators in said lawsuit and because they are all in contempt of the Remand Order of US District Court Judge Larry McKinney Indianapolis dated Jan. 6, 1998, and because I have motioned - (as part of my Habeas Corpus Petition filed July 23, 1998 in Indianapolis Fed Court) - for Judge Bridges to be held in contempt of the aforesaid 1-6-98 Fed. Order, all 3 Monroe County Judges are in conflict of

interest and operating to protect their own personal interest by causing me to be jailed with all that that involves, and all 3 loose any jurisdiction they MAY have had because of the state and federal record in proof of that conflict of interest, THEREFORE no order for an x-ray or anything else is valid from them, but rather null & void from its inception. THUS some neutral judge, fully advised in the facts of this unfortunate situation, must make & sign such an order; (6:) MY signature will not be provided authorizing any medical tests(s) or treatment(s) and in the event of any misadventure related thereto full liability will be pursued; (7) I an legally entitled to be immediately & unconditionally released & it would be the wisest action. (8) I will NOT waiver the jurisdictional/summons issue, or pay for anything. Miss Lynn Johnston PRISONER

[6th Un -Marked EXHIBIT record p.24]

To Judy Johnson & whom it may concern.
I need the cash I was arrested with to buy public transportation back from the US District Court in Indianapolis when the Federal Judge or the Circuit orders my release from the custody & confinement of the sheriff, and I will reject for cause any & all Billing for any and all tests or treatments submitted to or endured while subject to illegal & unconstitutional restraint of my liberty. LJ
Further I complain & protest the rude & abusive tone, treatment & manner & intent of the female intercom & lunch tray delivery officer ("Rand" possibly but she has no name tag on & I now that I have my glasses (for the 1st time sine my [arrest] July 16th) as I was attempting to be cooperating in solving a mutual problem & had the tray floor slammed & was cut off & interrupted & delayed from getting this document back to Judy Johnson which I was attempting to politely request. The same food delivery cop retrieved the tray by opening & saying in a disagreeable tone "tray" so I did not attempt any conveyance to J. Johnson, I worry now this cop will loose or erase my message. I am owed an apology at minimum.

STATE OF INDIANA)
) SS:
COUNTY OF MONROE)

IN THE MONROE CIRCUIT COURT
CAUSE NO. 53C05 9711 IF 07836

STATE OF INDIANA,

vs.

LYNN JOHNSTON
Defendant.

MEMORANDUM

TO: Ms. Johnston

You are being detained in the Monroe County Correction Facility because you are refusing to provide information that we must have before you may be released. The Court has found your ongoing refusal to be an act of contempt.

You are not being held because you were found to have committed an infraction. Neither are you being held because you have not paid fines and costs that were assessed against you.

You may obtain your release by requesting a hearing in court so that we may obtain the following information:

1. Your full name.
2. Your date of birth together with the place of birth.
3. Your residence address.
4. Whether you are employed or have other sources of regular income.
5. Your proposal on how you will pay the fines and costs.

As soon as you are ready to communicate the foregoing information completely and accurately please let us know.

Douglas R. Bridges, Judge
Monroe Circuit Court V
July 31, 1998

00 027

UNITED STATES COURT OF APPEALS
FOR THE SEVENTH CIRCUIT

NO. 98-3519

LYNN JOHNSTON,	)	Appeal from the US District Court,
	)	Southern District of Indiana
Appellant,	)	Indianapolis, 98 C 621
	)	David F. Hamilton, Judge
v.	)	
	)	
BMV, et al.,	)	
	)	
Appellees.	)	

Form 1150
no ee

NOTICE OF NON-INVOLVEMENT ON
APPEAL DUE TO LACK OF SERVICE IN THE TRIAL COURT

The Indiana Office of the Attorney General, by Jon Laramore, Deputy Attorney General, respectfully notifies the Court that appeal information has been received by this Office in the above-captioned case. Our records reveal that there was no service in the trial court. We request that all Deputy Attorneys General be removed from the service list.

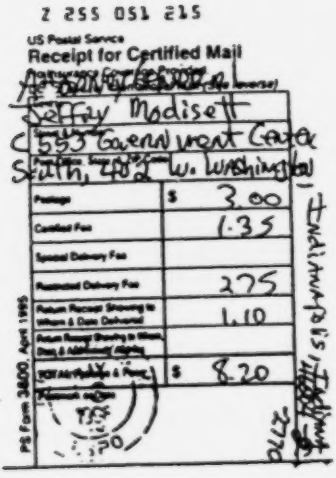
This office will not participate in this appeal or write a brief unless directed to do so by this Court.

U.S.C.A.—7th Circuit
FILED
OCT 20 1998
GINO J. AGNELLO
CLERK
DOC. #

Respectfully submitted,

JEFFREY A. MODISETT
Attorney General of Indiana

Jon Laramore
Atty. No. 17166-49
Deputy Attorney General



Z 255 051 215

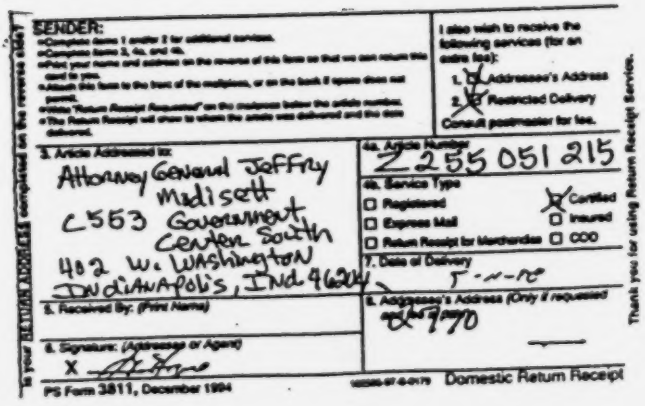
US Postal Service
Receipt for Certified Mail

Attorney General Jeffry Modisett
C553 Government Center South
402 W. Washington
Indianapolis, IN 46204

Postage	$ 3.00
Certified Fee	1.35
Special Delivery Fee	
Restricted Delivery Fee	2.75
Return Receipt Showing to Whom & Date Delivered	1.10
Return Receipt Showing to Whom, Date & Addressee's Address	
TOTAL Postage & Fees	$ 8.20

PS Form 3800, April 1995

Indianapolis, IN



SENDER:
- Complete items 1 and/or 2 for additional services.
- Complete items 3, 4a, and 4b.
- Print your name and address on the reverse of this form so that we can return this card to you.
- Attach this form to the front of the mailpiece, or on the back if space does not permit.
- Write "Return Receipt Requested" on the mailpiece below the article number.
- The Return Receipt will show to whom the article was delivered and the date delivered.

I also wish to receive the following services (for an extra fee):
1. ☒ Addressee's Address
2. ☒ Restricted Delivery
Consult postmaster for fee.

3. Article Addressed to:
Attorney General Jeffry Modisett
C553 Government Center South
402 W. WASHINGTON
INDIANAPOLIS, IND. 46204

4a. Article Number: Z 255 051 215

4b. Service Type
☐ Registered ☒ Certified
☐ Express Mail ☐ Insured
☐ Return Receipt for Merchandise ☐ COD

7. Date of Delivery: 5-11-95

5. Received By: (Print Name)

8. Addressee's Address (Only if requested and fee paid)

6. Signature: (Addressee or Agent)
X

PS Form 3811, December 1994 Domestic Return Receipt

Thank you for using Return Receipt Service.

United States District Court
Southern District of Indiana
Civil Action No. I P 98-0621 C - H/G

LYNN JOHNSTON,
Plaintiff,

v

THE BUREAU OF MOTOR VEHICLES COMMISSION, ET AL
Defendants.

PLAINTIFF - PETITIONER'S OCTOBER 23, 1998 RESPONSE UNDER PROTEST PURSUANT TO THE SEVENTH CIRCUIT COURT ORDER OF OCTOBER 14, 1998

First, at approximately 10 p.m. last night [Thursday, October 22nd] Plaintiff/Mandamus-Petitioner received an envelope postmarked October 15th from the Seventh Circuit Court of Appeals containing what appears to be *only* one page of an Order dated October 14, 1998, with said document having neither a handwritten nor stamped signature of any judge or clerk, nor the seal of said court. Second, such document purports to require Plaintiff/Mandamus-Petitioner to pay $5.00 to the Clerk of the District Court by October 23, 1998, which is today Friday, *less than 24 hours from the receipt of such mail.* Third, Plaintiff/Mandamus-Petitioner states (A) that she has NOT had sufficient time to gain an understanding of said document; (B) that because of said document's use of "1." and "(#1)" *in the absence of any other or consecutive numbers* she believes that the mailing she received IS NOT a complete copy; and (C) that she has not had sufficient time for reflection or research to determine whether a motion for clarification, etc. should be sent to the Seventh Circuit Court, or whether said purported Order her be followed, assuming it is not just contrivance for finding her cause untimely as an excuse for slamming the door on the appeal papers such Order seems to be inviting. THEREFORE her $5.00 Money Order is mailed this 23rd day of October, 1998 under protest.

October 23rd, 1998

Respectfully submitted,

Lynn Johnston

U.S. POSTAL SERVICE **CERTIFICATE OF MAILING**
MAY BE USED FOR DOMESTIC AND INTERNATIONAL MAIL. DOES NOT PROVIDE FOR INSURANCE—POSTMASTER

L. Johnston
816 Auto Mall #243
47401

The Clerk
US District Court
46 E. Ohio
Indianapolis, IN 46209

PS Form 3817, Mar. 1989

BLOOMINGTON IN OCT 23 1998 PM

CUSTOMER'S RECEIPT DO NOT SEND THIS RECEIPT WITH MAIL KEEP IT FOR YOUR RECORDS

6926919175 1 981023 474010 ***5*00

The Clerk
46 E Ohio
9 C621

15.00

L Johnston
816 Auto Mall #243
Bloomington IN 47401

POST OFFICE TO ADDRESSEE EXPRESS MAIL EAIS

EG594528285US

ORIGIN (POSTAL USE ONLY)

4 lb

.40
10.75

SEE REVERSE SIDE FOR THE SERVICE GUARANTEE AND LIMITS ON THE INSURANCE COVERAGE

CUSTOMER COPY

CUSTOMER USE ONLY

METHOD OF PAYMENT:

FROM: (PLEASE PRINT) Phone 335-2070
Miss Johnston
816 Auto Mall Rd
No. 243
Bloomington, Ind.
47401

TO: (PLEASE PRINT)
The Clerk
US Court of Appeals for the
7th Circuit
219 S. Dearborn St.
Chicago, Ill 60604-1874

LABEL 11-B MAY

For Pickup or Tracking Call 1-800-222-1811

In The United States Court of Appeals for the Seventh Circuit
No. 98-3519

IN RE: LYNN JOHNSTON, Petitioner.

Motion for Further Clarification or Alternatives and supporting affidavit

The Order of November 9, 2998 (in response to Petitioner's clarification motion raising the question of fatal jurisdictional defects relative to this Courts' initial desire to construe and proceed with the Petition for a Writ of Mandamus *as* "a Notice of Appeal," appears to have overlooked or misapprehended certain controlling factors. With respect to the prudence of, as well as the proper "designation of the record to be transmitted on appeal," and with regard to the identification of sustainable arguments for an appeal brief, Petitioner is left in a state of confusion and therefore moves for clarification of the following dilemmas. [Additionally, Petitioner foresees the likelihood of a forthcoming motion to consolidate the review of the instant matter with the false arrest and imprisonment/habeas corpus proceeding's (intertwined and explained in the Mandamus Petition) which proceeding history (under the Hon. Daniel Tinder, US District Court Judge, Indianapolis) encompasses some of the same stripe of alarming procedural irregularities.]

1. What status is to be accorded her timely filed and served (Sept. 3rd) "Notice of Forthcoming Mandamus Petition to the Seventh Circuit Court of Appeals" (against the Aug. 4, 1998 Judgment) in light of the construing of the Mandamus Petition (Express® mailed to this Court on Oct. 4th amply before the end of the 40 day guideline suggested in F.R.App.P. Rule 31(a)), *as* "Notice of Appeal" (against the Aug. 4th Judgment and the Sept. 11th Order denying "any relief sought" in Sept.. 3rd filings) and the ordering of the lower court, for *jurisdictional purposes,* to enter such Mandamus Brief *as* a "Notice of Appeal" *upon the date of Oct. 6th, 1998* ?

2. How is the appearance of contrivances or capriciousness in the Court's Oct. 14th document construance and dating directives to be avoided in light of the Nov. 9, 1998 Order

dismissing the Aug. 4th Judgment for lack of timely jurisdictional "notice" necessary to review by appeal"

3. What is the basis for construing *as* "60(b)motions," her Sept. 3rd *"notice"* filings (protesting defendants' bad faith conduct, the non-docketing of responsive pleadings, demanding compensation for false arrest and imprisonment *upon what* were designated to be adequate preventive procedures laid out in *the Complaint*, etc.) when the limited girth of the proposed review by *appeal* due to the Nov. 9th Order and otherwise) protects the Aug. 4th Judgment from re-visitation or upset and suggest the *inadequacy of moving such an appeal forward solely on the secondary, dependent matters identified as construable as "Rule 60(b) motions* ?

4. On what basis, (*assuming* her Sept. 3rd Notice of seeking 7th circuit review is construed as an adequate notice of appeal consistent with the attitude and tone of the Court's Oct. 14th appeal directive), is the Aug. 4th Judgment of dismissal *without prejudice* appealable, and if there is no sustainable jurisdiction *by* the appeal route, by what other means will relief from the extraordinary wrongs and usurpations complained of in the Mandamus Petition be secured for Petitioner ?

5. In light of the unequivocal "shall be filed" directives of F.R.Civ.P.Rule 7, & 79 governing the filing and maintenance of complaint and answer pleadings, such as those "stricken," "obstructed" or "disappeared" of concern to Petitioner, and in further in light of precedents indicating mandamus *lies only to compel the performance of a governmentally-owed duty (and is* not properly issued to compel the exercise of discretionary undertakings), on what basis are the extraordinary usurpations and defiances cited in the Mandamus Petition properly characterized and addressed by appeal for correction of error *upon an abuse of discretion standard without imposing further delays and onerous and unwelcome briefing burdens upon the Petitioner in contravention of Rule 21(b)* ?

Courthouse personnel, interposing themselves in a pre-emptive, "superior directive," executive-capacity mode to "disappear," "strike" or otherwise "get rid of" those documents they regard as "intolerable" or "prolix," are usurping and exercising fact-and law-finding adjudicatory powers rightfully belonging to the jury, as well as executing kingly or politically foreign prerogatives. Since the Federal Rules provide no basis for Respondent's conduct, he must find his justification, if any, in the inherent power to do justice, and whatever the scope of his power, Respondent's conduct is of a character so highly improper and undesirable that it constitutes an extraordinary circumstance. To acquiesce in such unprecedented usurpative conduct would be highly deleterious to the sound administration of justice, and it would encourage the continued victimization of Petitioner, *and other, in the future.* Therefore it is particularly important to make a clear and unequivocal response to the first example coming before this Court, as well as to compel the rightful exercise of the lower court jurisdiction and process in respect and protection of Petitioner"s government-created procedural due process expectations and fundamental, organic rights.

Petitioner is guided by and relies on F.R.Civ.P. Rule 7(a); Fed. R.App. P 21(a)(b); 28 USC 1651; American Airlines v. Forman, C.A.N.J. 204 F.2d 230; Asher v. Ruppa, 173 F.2d 10 (7th Cir.); Atlass v. Miner, C.AA.Ill,. 265 F.2d 312, affd. 363 U.S. 641; reh. den. 364 U.S. 854; Brannon v. Warn Bros., Inc., 508 F. 2d 115 (9th Cir. 1974); Bennett v. Schmidt, et al, No. 97-4198 (7th Cir. Aug. 31, 1998); Jackson v. Marion County, et, al.No. 93-2875 (Sept. 19, 1995); Lutes v. U.S. Dist.Court for Western Dist. of Okl., C.A.Okl., 306 F.2d 948, modification den. 308 F.2d 574, cert. den. 371 U.S. 941, reh. den. 970; Monter v. United States, 440 F. Supp. 44 (M.D.pa. 1977); Moss v Kansas City Life Ins. Co., C.C.A.Mo., 96 F2d 108; People of the U.S. ex rel. Kelly v. Bibb, C.A.Ill., 255 F2d 772 (7th Cir. 1958); Rapp v. Van Dusen, C.A.Pas., 350 F2d 806; U.S. Dooling, 406 F.2d 192, cert. den. 395 U.S. 911; US v. State of Arizona, 346 US 907; West's Federal Practice Manual, vol. 7, section 9727; 36 C.J.S. section 290(14); etc.

T H E R E F O R E Petitioner suggest that further elucidation or clarification is necessary to resolve the foregoing question controlling the jurisdictional situation; or

In the alternative, Petitioner suggest the issuance of orders:

firstly, to recall of this court's October 14, 1998 Order;

secondly,*to provide a prompt opportunity* for Respondent Hamilton to respond [to] the Petition for a Writ of Mandamus;

thirdly, to compel the lower court to *vacate all* orders related to the Judgment of dismissal;

fourthly, to confine and compel the lower court to exercise it[s] prescribed jurisdiction and authority by providing Petitioner and her Complaint the adjudicatory forum and processes intended under the system of jury justice which has been usurped form her meaningful usage; and

fifthly, to confine and compel the lower court to adhere to relevant statutes cited in the Mandamus Petition and otherwise.

Respectfully submitted,

November 18, 1998 /s/ Miss Lynn Johnston, Petitioner.

Supporting Affidavit

Petitioner swears upon penalty of perjury under the laws of the United States that the foregoing motion is brought in good faith for proper purposes, and is executed this 18th day of November, 1998.

November 18, 11998 /s/ Lynn Johnston

United States Court of Appeals
For The Seventh Circuit
219 South Dearborn Street
Chicago, Illinois 60604

Gino J. Agnello
Clerk
312-435-5850

Ms. Lynn Johnston
816 Auto Mall Road
Apartment Number 243
Bloomington, Indiana 47401

November 25, 1998

RE: *In re Johnston*, no. 98-3519

Dear Ms. Johnston,

On November 19, 1998, we received a document entitled "Motion for Further Clarification or Alternatives and Supporting Affidavit." There is no provision in the Federal Rules of Appellate Procedure for the filing of such a motion. Accordingly, the motion is being returned to you unfiled. You are advised to consult the Federal Rules of Appellate Procedure and this Court's Circuit Rules before filing any further motions.

Sincerely,

Eric Frost

Eric Frost, Operations Manager

Enclosure

Lynn Johnston
816 Auto Mall Road, Suite 243
Bloomington, IN 47401

November 8, 1999

Postmaster Jacobs
US Post Office
Bloomington, IN 47401

Greetings:

It has been my understanding that there is a postal regulation that Priority™, Express™, or regular mail of more than 16 ounces can not lawfully be deposited in a US Mail receptacle due to governmental concerns about "mad-bomber" type incidents and that such mail must be handed to a postal worker personally.

You may recall that late on February 8th, 1999 I had reason to make a complaint with you against your night supervisor's refusal of my 33 'better than first class'/premium-service heavy weight packages, and that you required me to get a lawfully sworn statement from the FBI agent's niece Caroline Hazel Hites who was privy to relevant facts. As I recall, I said the complaint would not be made official if the problem was corrected and made right by postmarking the packages with the stamp-cancellation dates to which they were entitled.

This letter serves as your notice that I again have reason to make a complaint with you against your same night supervisor (Shellie Birdwell) for poor service, offensive and uncalled for conduct and remarks in the very early am hours (approximately between 12:30 am and 1:15 am) of October 22, 1999. After some difficulty finding your new mail processing annex and there proceeding as previously directed by local postal employees, I entered the well lighted glassed area and picked up the phone for a postal employee to come to the interior glass door to personally be handed my 3 heavy 'better than first class' packages. While I waited holding these heavy packages, one of which had over 20.00 postage on it, I could hear the phone I was ringing actually ring quite loudly down the short hallway. I could clearly see a table at the end of this short hallway through the glass door with what I adjudged to be party items

including what looked like a large gaudy colored sheet cake. Public servant Birdwell eventually came forward from the left toward the ringing phone, taking notice of me looking directly at her from the other end of the hallway. She obviously recognized me and delayed answering the ringing phone for what I would estimate as a period of about 15 minutes, during which time other postal employees known to me on sight also came from the same area left of the hallway (where I waited) apparently to see who was at the service door and similarly not answer the ringing phone nor receive my heavy packages. In obvious response to what Birdwell instantly communicated, these men just looked and laughed at me. Given the authority and value of their positions, it must have been something very clever to so amuse the several of them. And the ringing went on and on until they figured out that I wasn't leaving until my packages were legally passed into the domain of the postal service for delivery and would, if necessary, again wait all night for them to be received. Eventually when Birdwell came to the door, she responded that she knew who I was and that she was not concerned that my packages might contain bombs which has been one of her claimed excuses for prior mail refusals. She attempted to chastise and question me about my use of the post office, and I finally simply asked the direct question, "are you refusing to receive this mail?" And while she carried in a vein of qualified willingness to receive any packages for local delivery, she did eventually receive all 3 of them (2 of which were for Indianapolis governmental office delivery). All that needed to be said was "your packages are received," or "thank your," or any similar phrase of acknowledgement; everything else should be viewed as dilatory flimflaming on her part.

It is my understanding that section 1701 of the United States Criminal Code Title 18 provides that anybody who intentionally obstructs or retards the passage of the mail is subject to criminal penalties including incarceration in a federal penitentiary.

It is no secret that since my 1984 US Senate campaign (and to some extent before) that I have an ongoing government harassment problem for being a whistle blower and that it includes periods of special paperwork-increasing "mail cover" at post offices. As an American citizen I am entitled to exercise a

First Amendment right and to continue to "blow the whistle" against military abuse and violations, and governmental corruption generally without being subjected to crimes or a substandard pattern of conduct or violation of my civil rights by anyone. It should be irrelevant whether or not supervisor Birdwell and her cohorts may personally disapprove of me or my use of postal services upon any alleged facts or theory, because the US Post Office exists to receive and deliver mail, and these postal employees complained of are employed to facilitate that mission. If they are acting on another agenda, they need to be employed elsewhere.

I observe that the necessity for lodging this written complaint reflects unfavorably upon your prior handling of the Birdwell problem. Thus should her or her cohorts' acts or omissions provide further reason for complaint, I will seek an appropriate solution to the problem in other offices, or in judicial branch venues.

Sincerely,

/s/Lynn Johnston

Additionally, on a theoretically separate Express™ Mail problem: Under what program or regulation, or under whose order does my mail # EG 594586271 end up in New Zealand?

Lynn Johnston
816 Auto Mall Road, No. 243
Bloomington, Indiana 47401
812-335-2070

Mr. Gino Agnello, Clerk
United States Court of Appeals for the 7th Circuit
219 South Dearborn Street
Chicago, Illinois 60604

November 30, 1998

Dear Mr. Agnello;

Pursuant to the directive given to me this forenoon form the Administrative Office of the US Courts (Beth Garbo, 202-273-0107), I attempted to speak to you by phone relative to my complaint involving Mr. Eric Frost, Operations Manager, only be to informed by a female deputy clerk who refused to identify herself by either name or number, that it is your policy "not to take calls form the public." Given the nature of of the problem and the shortage of time, this presents a bad appearance.

My complaint is that you Operations Manager *by his mailing of November 25, 1998* has returned as "received and returned unfiled November 19, 1998" my 4 page motion titled, "Motion for Further Clarification or Alternatives and Supporting Affidavit." The related "Proof of Service" was also returned.

Mr. Frost delayed such mailing a period of six days, from the 19th to the 25th which unnecessarily creates a shortage of response time assuming the seven day rule applies, and it further creates procedural problems within a separate time frame, the extent of which cannot be known at present.

His cover letter (copy enclosed), cites as his reason that "[t]here is no provision in the Federal Rules of Appellate Procedure for the filing of such a motion." Moreover, he "advised" me to consult the rules before filing any further motions. This is insulting because I spent many hours reading over 200 pages of rules your office sent to me, and I believe I have substantially complied with them. Mr. Frost's cover letter fails to provide actual notice of the particular requirement under the guidance of

the Practitioner's Handbook (1996 edition recently sent by your office), page 202, Rule 47(b). I note that it says:

> No sanction or other disadvantage may be imposed for noncompliance with any requirement not in the federal law, federal rules, or the local circuit rules unless the alleged violator has been furnished in the particular case with actual notice of the requirement.

The above wording, "noncompliance with any requirement," indicates some specific shortcoming, and the one alleging it, should be responsible for its identification and disclosure. Mr. Frost's action greatly disadvantages me, for no apparent cause I have been able to discern.

His phraseology suggests that *only such motions as are specifically named in the rules* will be filed. This would seen to be unprecedented, but if this is your position, kindly state the authority therefor.

I note that Practitioner's Handbook at page 166 (F.R.App.P.Rule 27) governing motions requires that they state "with particularity" the grounds on which they are based and "the orders or relief sought." Moreover, the 9 page stapled "Operating Procedures" also recently sent by your office for my guidance, makes specific provisions for "all other motions," *and my motion for further clarification (of the court's presumption of adequate jurisdiction to entertain my cause of action by appeal)* or alternative (proceeding under the provisions of F.R.App.P. Rule 21(a) & (b)), reasonably enough gives the appearance of coming within the provisions of the legal term "all other motions."

I further note that an obligation is placed upon me as the petitioner to bring appellate jurisdictional problems to the attention of the Court (p.16-17 Practitioner's Handbook). My motion has given reasonable and specific notice of the problems which apparently stems from either a misapprehension of relevant facts by the Panel, or an attempt to set-up for "ducking the review" by slipping, shifting and shuffling the Petition for a Writ of Mandamus into a position for dismissal *for want of jurisdiction by appeal*. I would hope that the Panel would be

above setting-up to "duck the review" but the reality, misapprehension or mischief, will soon become plain enough.

It would appear form the cover letter of the Operations Manager that this "unfiling" matter was undertaken outside the Operating Procedures," the Practitioner's Handbook provisions, and Rule 45 F.R.App.P (governing the duties of the clerks), *and on his own initiative.* I find this development somewhat hard to believe, given the impression of professional competency and personal integrity which Mr. Frost made on a prior occasion of inquiry. Nonetheless, my complaint must be against the said conduct of Mr. Frost. I trust that you will prudently investigate what at this juncture must be presumed to be Mr. Frost's adventuresome, if not partisan conduct in this matter.

I am returning to your care for re-filing the documents which Mr. Frost rejected. Further I am requesting that you personally see that an appropriate notation is made in the docket record of his "unfiling" error, and to the extent possible undertake to avert any disadvantages or problems accruing to me in the litigation as a result of this unfortunate matter.

I thank you in advance for your prompt attention to this important matter.

Sincerely,

/s/Lynn Johnston
816 Auto Mall Road, No. 243
Bloomington, IN 47401

Enclosures

Implantable Transponder

Product Description:

The Implantable Transponder is a passive radio-frequency identification tag, designed to work in conjunction with a compatible radio-frequency ID reading system. The transponder consists of an electromagnetic coil and microchip sealed in a tubular glass enclosure. The chip is preprogrammed with a unique ID code that cannot be altered; over 34 billion individual code numbers are available. When the transponder is activated by a low frequency radio signal, it transmits the ID code to the reading system. Independent testing has shown the transponder to be safe and easy to implant.

Although specifically designed for implanting in animals, the transponder can be used for other applications requiring a micro-sized identification tag.

Specifications:

DESTRON/IDI

11 MM
ACTUAL
Length

IN THE
COURT OF APPEALS OF INDIANA
CAUSE NO. 53A01-9909-CR-325

LYNN D. JOHNSTON,	)	Appeal from the Monroe
Appellant (Defendant Below),	)	Circuit Court
	)	
v.	)	Lower court cause
	)	no. 53C05-9711-IF-07836
	)	
STATE OF INDIANA,	)	The Honorable
Appellee (Plaintiff Below).	)	Douglas R. Bridges, Judge

SUBSTITUTION OF APPEARANCE

State of Indiana, by counsel, pursuant to Ind. Appellate Rule 2.1, says:

1. Counsel for Appellee, State of Indiana, is Attorney General of Indiana Jeffrey A. Modisett, Atty. No. 00147404-49, by Deputy Attorney General Andrew Hedges, Atty. No. 0018693-53, Office of the Attorney General, IGCS, 5th Floor, 402 West Washington Street, Indianapolis, IN 46204-2794; Telephone (317) 232-2254; FAX (317) 232-7979.

2. Counsel requests that the undersigned Deputy Attorney General be substituted for any Deputy previously entering his or her appearance in this appeal.

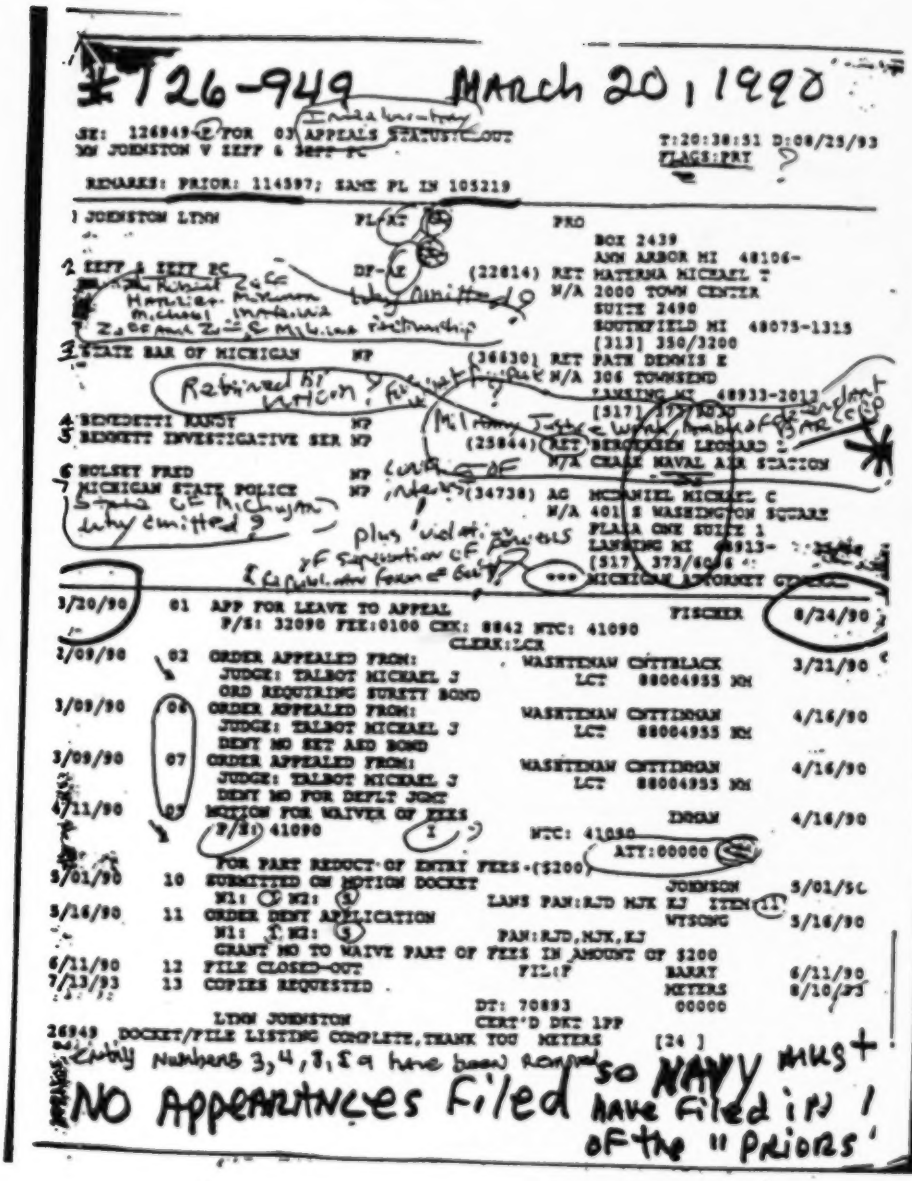
3. Counsel for Appellee does not request service of orders and opinions by FAX.

4. The undersigned Deputy Attorney General hereby certifies having served upon opposing counsel, this 19th day of October, 1999, a copy of the foregoing Substitution of Appearance, by depositing the same in the United States mail, first-class postage prepaid addressed as follows: Lynn Johnston, 816 Auto Mall Road, #243, Bloomington, IN 47401.

JEFFREY A. MODISETT
Attorney General of Indiana
Atty. No. 0014704-49

By: Andrew Hedges

Andrew Hedges
Deputy Attorney General
Atty. No. 0018693-53
IGCS, 5th Floor
402 West Washington Street
Indianapolis, IN 46204-2794
Telephone: (317) 232-2254
Attorneys for Appellee



#126-949 March 20, 1990

SE: 126949-E FOR 03 APPEALS STATUS:C-OUT T:20:38:51 D:08/25/93
XN JOHNSTON V ZEFF & ZEFF PC FLAGS:PRT

REMARKS: PRIOR: 114597; SAME PL IN 105219

1 JOHNSTON LYNN PL/AT PRO
BOX 2439
ANN ARBOR MI 48106-

2 ZEFF & ZEFF PC DF-AT (22814) RET MATERNA MICHAEL T
M/A 2000 TOWN CENTER
SUITE 2490
SOUTHFIELD MI 48075-1315
[313] 350/3200

3 STATE BAR OF MICHIGAN MP (36630) RET PATE DENNIS E
M/A 306 TOWNSEND
LANSING MI 48933-2012
[517] 372/8320

4 BENEDETTI RANDY MP
5 BENNETT INVESTIGATIVE SER MP (25844) RET BERGUSSEN LEONARD J
M/A CHASE NAVAL AIR STATION

6 BOLSEY FRED MP
7 MICHIGAN STATE POLICE MP (34738) AG MCDANIEL MICHAEL C
M/A 401 S WASHINGTON SQUARE
PLAZA ONE SUITE 1
LANSING MI 48913-
[517] 373/6434
*** MICHIGAN ATTORNEY GENERAL

3/20/90 01 APP FOR LEAVE TO APPEAL FISCHER 8/24/90
P/S: 32090 FEE:0100 CHK: 8842 RTC: 41090
CLERK:LCR

3/09/90 02 ORDER APPEALED FROM: WASHTENAW CNTY:BLACK 3/21/90
JUDGE: TALBOT MICHAEL J LCT 88004933 XN
ORD REQUIRING SURETY BOND

3/09/90 06 ORDER APPEALED FROM: WASHTENAW CNTY:DUGAN 4/16/90
JUDGE: TALBOT MICHAEL J LCT 88004933 XN
DENY MO SET ASD BOND

3/09/90 07 ORDER APPEALED FROM: WASHTENAW CNTY:DUGAN 4/16/90
JUDGE: TALBOT MICHAEL J LCT 88004933 XN
DENY MO FOR DEFLT JGMT

4/11/90 03 MOTION FOR WAIVER OF FEES DUGAN 4/16/90
P/S: 41090 RTC: 41090
ATT:00000
FOR PART REDUCT OF ENTRY FEES-($200)

5/01/90 10 SUBMITTED ON MOTION DOCKET JOHNSON 5/01/90
MI: MI: LANS PAN:RJD MJK KJ ITEM
5/16/90 11 ORDER DENY APPLICATION WYSONG 5/16/90
MI: MI: PAN:RJD,MJK,KJ
GRANT MO TO WAIVE PART OF FEES IN AMOUNT OF $200
6/11/90 12 FILE CLOSED-OUT FIL:F BARRY 6/11/90
7/13/93 13 COPIES REQUESTED METERS 8/10/93
DT: 70893 00000
LYNN JOHNSTON CERT'D DKT 1PP
26949 DOCKET/FILE LISTING COMPLETE.THANK YOU METERS [24]

Entitled Numbers 3, 4, 8, & 9 have been removed so NAVY MUST have filed in 1 of the 11 PRIORS!

NO Appearances Filed

Declaration of Independence (1776)

Thirty-First Paragraph: ...solemnly publish and declare, that these united colonies are and of right out to be, free and independent states; that they are absolved from all allegiance to the British crown, and that all the political connection between them and the state of Great Britain is, and ought to be, totally dissolved...with a firm reliance on the protection of Divine Providence, we mutually pledge ...our lives, our fortunes, and our sacred honor.

December 20, 1783 Act of the Legislature of Virginia

AN ACT to authorize the delegates...to convey to...Congress ...the territory north-westward of the river Ohio.....

Be it enacted...upon the condition that the territory so ceded shall be laid out and formed into states,...and that the states so formed shall be distinct republican states....

[1784 - 1810 Colonial/Northwest Territory Foreign Law Repeals]

AN ACT to repeal all acts of the Parliament of England, and of the Parliament of Great Britain, within the Territory of Michigan in the United States of America, and for other purposes (September 16, 1810), **Laws of the Territory of Michigan (1820), p. 459-462, [Michigan law position being representative of the principle and practice, and a part of Indiana within the region "north-west of the Ohio River" out of which 5 states' land was ceded from Virginia (1783), Massachusetts (1784) and Connecticut (1786).]**

Preamble Whereas the good people of the territory...may be ensnared by...acts of the parliament of England, and of acts of the parliament of Great Britain...it has been thought advisable by the governor and the judges of the territory...specially to enact such of said acts as shall appear worthy of adoption.

[Section 1] Be it therefore enacted by the Governor and Judges ..That no act of the parliament of England, and no act of the parliament of Great Britain, shall have any force within the territory...Provided, That all rights arising under any such acts shall remain...the same being adopted from the laws of one of the original states, to wit, the state of Virginia, as far

as necessary and suitable to the circumstances of the territory of Michigan. Sect. 2 ...Be it therefore enacted...That the Coutume de Paris, or ancient French common law, existing in this country, the laws, acts, ordinances, arrests and decrees of the governors or other authorities of the province of Canada, and the province of Louisiana, under the ancient French crown, and of the governors, parliaments or other authorities of the province of Canada generally, and of the province of Upper Canada particularly, under the British crown, are hereby formally annulled, and the same shall be of no force within the territory...Provided, That all rights accruing under them, or any of them, shall remain valid: The same being adopted from the laws of one of the original states, to wit, the state of Vermont....

July 13, 1787 [Northwest] Ordinance of Congress. An ordinance for the government of the territory of the United States north-west of the river Ohio. [See 1 Stat. 50 (1789) First Congress' incorporation of the Ordinance into the body of US statutory law]

Paragraph 13 And for extending the fundamental principles of civil and religious liberty, which form the basis whereon these republics, their laws, and constitutions, are erected; to fix and establish these principles as the basis of all law, constitutions, and governments, which forever hereafter shall be formed in the said territory;....

[¶ 14] ...the following articles shall be considered as articles of compact between the original states, and the people and states in the said territory, and forever remain unalterable, unless by common consent, to-wit:...

[¶ 19] (Art. V.) There shall be formed...states... Provided the constitution and government...shall be republican, and in conformity to the principles contained in these articles;....

US Constitution (1789)

Art. IV. §3 The United States shall guarantee...a Republican Form of Government....

2 Stat. 58, Act of May 7, 1800, AN ACT to divide the territory of the United States north-west of the Ohio into two separate governments.

Sec. II ...there shall be established within the said territory, a government, in all respects similar to that

provided by the ordinance of Congress, passed on the 13th day of July, 1787,...; and the inhabitants thereof shall be entitled to, and enjoy, all and singular, the rights, privileges, and advantages granted and secured to the people by the said ordinance.

Act of April 19, 1816 AN ACT to enable...Indiana territory to form a constitution and state government, ...

Sec. IV. And be it further enacted...to form a constitution and state government...Provided, That the same, whenever formed, shall be republican, and not repugnant to those articles of the ordinance of the thirteenth of July, 1787, which are declared to be irrevocable....

SEPARATION OF POWERS

US Constitution (1789)

Art. I, §1. All legislative Powers...shall be vested in a Congress.... Art. II, §1 The executive Power shall be vested in a President.... Art. III, §1 The judicial Power...shall be vested in one supreme Court, and in such inferior Courts as the Congress may...establish....

Indiana Constitution (1851)

Art. 3, § 1 Three separate departments: The powers of the Government are divided into three separate departments; the Legislative, the Executive including Administrative, and the Judicial: and no person, charged with the official duties under one of these departments shall exercise any of the functions of another, except as in this Constitution expressly provided.

CIVIL POWER OVER MILITARY

July 9, 1778 Articles of Confederation and Perpetual Union

Art. I The style of this confederacy shall be, "The United States of America."

Art. III. The said states hereby severally enter into a firm league of friendship...for their common defense, the security of their liberties, and their mutual and general welfare, binding themselves to assist each other against all force offered to, or attacks made upon them... on account of religion, sovereignty, trade, or any other pretense whatever.

Art. X. Sec IV. The United States in Congress assembled shall also have sole and exclusive right and power of... making rules for the government and regulation of the said land and naval forces and directing their operations:

July 13, 1787 Northwest Ordinance of Congress. [Touching on: any military draft or other abductive use prohibition of territorial inhabitants, or harassment of inhabitants' religious sentiments or practices, with compensation for rights deprivations]

[¶ 20] (Art. VI.) There shall be neither slavery nor involuntary servitude in the said territory, otherwise than in the punishment of crimes, whereof the party shall have been duly convicted...

[¶ 15] (Art. I) No person, demeaning himself in a peaceable and orderly manner, shall be molested on account of his mode of worship or religious sentiments, in the said territory.

[¶ 16] (Art. II) The inhabitants of the said territory shall always be entitled to the benefits of the writ of habeas corpus, and of the trial by jury of a proportionate representation of the people in the legislature, and of judicial proceedings according to the course of the common law. All persons shall be bailable, unless for capital offenses where the proof shall be evident, or the presumption great. All fines shall be moderate; and no cruel or unusual punishments shall be inflicted. No man shall be deprived of his liberty or property, but by the judgment of his peers or the law of the land; and should the public exigencies make it necessary, for the common preservation, to take any person's property, or to demand his particular services, full compensation shall be made for the same. And, in the just preservation of rights and property it is understood and declared, that no law ought ever...have force...that shall in any manner whatever, interfere with, or affect private contracts or engagements....

US Constitution (1789) [military subservient to civil authority]

Art. I. §8 The Congress shall have Power...To exercise exclusive Legislation in all Cases whatsoever,...over all Places purchased...for...Forts...and other needful Buildings; ...make Rules concerning Captures...declare war, grant Letters of Marque and Reprisal, and....provide for calling forth the Militia to execute the Laws of the Union, suppress

Insurrections and repel Invasions;....

Art. II, §2 The President shall be Commander in Chief of the Army and Navy of the United States, and of the Militia of the several States, when called into the actual Service of the United States....

Bill of Rights (1781)

3rd Amendment. No Soldier shall, in time of peace be quartered in any house, without the consent of the Owner, nor in time of war, but in a manner to be prescribed by law.

5th Amendment

No person shall...be deprived of life, liberty, or property, without due process of law; nor shall private property be taken for public use, without just compensation.

Indiana Constitution (1851)

Art. I, § 33 Military subordinate to civil power

The military shall be kept in strict subordination to the civil power. Art. I, §34 No soldier shall, in time of peace, be quartered in any house, without the consent of the owner; nor in time of war, but in a manner to be prescribed by law. Art. I, § 21 No man's particular services shall be demanded without just compensation. No man's property shall be taken by law without just compensation; nor, except in the case of the state, without such compensation first assessed and tendered.

50 USC 401 et seq., "National Security Act of 1947," EXECUTIVE ORDER NO. 12333 (Authorization Dec. 4, 1981, 46 F.R. 59941) (as amended) [Rights Violation Prohibitions"]

§401 Declaration of policy. In enacting this legislation, it is the intent of Congress to provide...unified direction under civilian control of the Secretary of Defense...as President of the United States of America, in order to provide for the effective conduct of the united States intelligence activities and the protection of constitutional rights, it is hereby ordered as follows:

Part 1 Goals, Directions, Duties and Responsibilities With Respect to the National Intelligence Effort.

1.11 The Department of Defense. The Secretary of Defense shall:...(d) Conduct counterintelligence activities...within the United States in coordination with the FBI pursuant to procedures agreed upon by the Secretary of Defense and the Attorney General;... (g) Carry out or contract for research,

development and procurement of technical systems and devices relating to authorized intelligence function;

1.14. The Federal Bureau of Investigation. Under the supervision of the Attorney General and pursuant to such regulations as the Attorney General may establish, the Director of the FBI shall: (a) Within the United States conduct counterintelligence and coordinate counterintelligence activities of other agencies within the Intelligence Community, (e) Carry out or contract or research... .

2.1 Need. ...Collection of such information...will be pursued in a vigorous, innovative and responsible manner that is consistent with the Constitution and applicable law and respectful of the principles upon which the United States was founded.

2.4. Collection Techniques. Agencies within the Intelligence Community shall use the least intrusive collection techniques feasible within the United States or directed against United States persons abroad. Agencies are not authorized to use such techniques as electronic surveillance, unconsented physical search, mail surveillance, physical surveillance, or monitoring devices unless they are in accordance with the procedures established by the head of the agency concerned and approved by the Attorney General. Such procedures shall protect constitutional and other legal rights and limit use of such information to lawful governmental purposes. These procedures shall not authorized:... (c) Physical surveillance of a United States person in the United States by agencies other than the FBI... (d)

2.5 Attorney General Approval. The Attorney General hereby is delegated the power to approve the use for intelligence purposes, within the United States...of any technique for which a warrant would be required if undertaken for law enforcement purposes, provided that such techniques shall not be undertaken unless the Attorney General has determined in each case that there is probable cause....

2.8 Consistency with Other Laws. Nothing in this Order shall be construed to authorized any activity in violation of the Constitution or statutes of the United States.

2.9 Undisclosed Participation in Organizations Within the United States. ....No such participation may be undertaken for the purpose of influencing activity of the organization or

its members except in cases where: (a) The participation is undertaken on behalf to the FBI in the course of a lawful investigation;....

2.10 *Human Experimentation. No agency within the intelligence Community shall sponsor, contract for or conduct research on human subjects except in accordance with guidelines issued by the Department of Health and Human Services. The subject's informed consent shall be documented as required by those guidelines.*

2.11 **Prohibition on Assassination.** No person employed by or acting on behalf of the United States Government shall engage in, or conspire to engage in, assassination.

2.12 **Indirect Participation.** No agency of the Intelligence community shall participate in or request any person to undertake activates forbidden by this Order.

3.13 **Congressional Oversight.** The duties and responsibilities of...entities engaged in intelligence activities to cooperate with the Congress in the conduct of its responsibilities for oversight of intelligence activities shall be as provided in title 50, United States Code, section 413...

3.4 Definitions. For the purposes of this Order, the following terms shall have these meanings: (b) Electronic surveillance means...electronic means without the consent of a person who is a party to an electronic communication or, in the case of a non-electronic communication, without the consent of a person who is visibly present at the place of communication...

JUSTICE PURCHASE FEES

Declaration of Independence [RE: Owning, not purchasing rights]

Twenty-Ninth Paragraph: In every stage of these oppressions we have petitioned for redress...repeated petitions have been answered only by repeated injury. A prince whose character is thus marked by every act which may define a tyrant, is unfit to be the ruler of a free people.

Second Paragraph: We hold these truths to be self-evident--that....certain unalienable rights...life, liberty, and the pursuit of happiness...to secure these rights, governments are instituted among men, deriving their just powers from the consent of the governed.....

US Constitution (1789) [RE: owning permanent rights]

Preamble. We the people...in Order to establish Justice,

insure domestic Tranquility...and secure the Blessings of Liberty to ourselves and our Posterity, do ordain and establish this Constitution...

Indiana Constitution (1851) [RE: God's free endowment of rights]

Preamble. TO THE END, that justice be established, public order maintained, and liberty perpetuated; We the people of the State of Indiana, grateful to ALMIGHTY GOD for the free exercise of the right to choose our own form of government, do ordain this Constitution.

Art. I, Section I. WE DECLARE,...That all men are created equal; that they are endowed by their Creator with certain unalienable rights; that among these are life, liberty, and the pursuit of happiness; that all power is inherent in the people; and that all free governments are, and of right out to be, founded on their authority, and instituted for their peace, safety, and well being. For the advancement of these ends, the people have, at all times, an indefeasible right to alter and reform their government.

Art. I , §12 All courts shall be open; and every person, for injury done to him in his person, property, or reputation, shall have remedy by due course of law. Justice shall be administered freely, and without purchase; completely, and without denial; speedily, and without delay.

JURY AJUDICATION

July 9, 1778 Articles of Confederation and Perpetual Union

Article IV. Section I. The better to secure and perpetuate mutual friendship and intercourse among the people of the different states...free inhabitant of each of these states... shall be entitled to all privileges and immunities of free citizens in the several states.... [extending principles underlying state and territorial provisions for jury adjudication].

July 13, 1787 Northwest Ordinance of Congress

[¶ 16] Art. II. The inhabitants of the said territory shall always be entitled to...trial by jury....

US Constitution (1789)

Art. III, Sec. 2 The Trial of all Crimes, except in Cases of impeachment, shall be by Jury;...

Art. IV, cl. 2 This Constitution, and the Laws... made in Pursuance thereof...and the Judges in every State.... [& cl. 3] ...and the Members of the several State Legislatures, and all executive and judicial Officers, both of the United States and of the several States, shall be bound by Oath or Affirmation, to support this Constitution.

Bill of Rights (1791)

5th Amendment. No person shall be held...for a...crime, unless on a presentment or indictment of a Grand Jury....

7th Amendment. ...no fact tried by a jury, shall be otherwise re-examined in any Court of the United States, than according to the rules of the common law.

6th Amendment. In all criminal prosecution, the accused shall enjoy the right to...an impartial jury....

Indiana Constitution (1851)

Art. 1, § 19 Right of jury to determine law and facts in criminal cases. In all criminal cases whatever, the jury shall have the right to determine the law and the fact. Art. I, § 20. Trial by jury in civil cases In all civil cases, the right of trial by jury shall remain inviolate.

IMMUNITY & MASTER-SERVANT STATU S

1 Revised Statutes 504 [hereafter R.S.] (Approved June 17, 1852) AN ACT providing for the government of the State University, the management of its funds, and for the disposition of the lands thereof. Section I. Be it enacted...The institution established by a... "An act to establish a college in the State of Indiana," approved January 28, 1928, is hereby recognized as the university of the state. Sec. II. The board of trustees of the state university shall...and they and their successors shall be a body politic, with the style of "The trustees of Indiana University" in that name to sue and be sued;...

Act of April 19, 1816 AN ACT to enable the people of the Indiana territory to form a constitution and state government, etc.

Sec. XII The treasurer of the university shall give bond in a

penalty, and with surety to be approved by such board, payable to the state, conditioned for the faithful discharge of his duties, which bond shall be filed with the auditor of the state.

EDUCATION

July 13, 1787 Northwest Ordinance of Congress.

[¶ 17] (Art. III) Religion, morality, and knowledge, being necessary to the good government and the happiness of mankind, schools and the means of education shall forever be encouraged.

Act of April 19, 1816 AN ACT to enable the people of the Indiana territory to form a constitution and state government, etc.

Sec. VI. ...That the section number 16, in every township ...shall be granted to the inhabitants of such township for the use of schools.... That one entire township, which shall be designated by the president of the United State, in addition to the one heretofore reserved for that purpose, shall be reserved for the use of a seminary of learning and vested in the legislature of the said state, to be appropriated solely to the used of such seminary by the said legislature.

1 R.S. 504 (1852) AN ACT providing for the government of the State University, the management of its funds...

Sec. X The trustees shall provide for the tuition, free of charge, of two students from each county in this state, to be selected by the board of county commissioners.

Sec. XIII. The governor, lieutenant-governor, speaker of the house of representatives, judges of the supreme court and superintendent of common schools, shall constitute a board of visitors of the university, and any three thereof a quorum.

Sec. XV. Such board of visitors shall examine the property, the course of study and discipline, and the state of the finances of the university,....

Indiana Constitution, 1851

Art. 8, § 2. Common school fund; The common School fund shall consist of...the moneys...from the fines assessed for breaches of the penal laws of the state; and from all

forfeitures which may accrue....
Art. 8, § 3. The principal of the Common School fund shall remain a perpetual fund, which may be increased, but shall never be diminished; and the income thereof shall be inviolably appropriated to the support of the Common Schools, and to no other purpose whatever.
Art. 8, § 7. All trust funds, held by the State, shall remain inviolate, and be faithfully and exclusively applied to the purposes for which the trust was created.
Art. 10, § 3. No money shall be drawn from the Treasury, but in pursuance to appropriations made by law.
Art. 5, § 16 Laws faithfully executed: The Governor shall take care that the laws are faithfully executed.

I N F R A C T I O N
ANTI - EDUCATION MONEY CONVERSION ENTERPRISE

Indiana Rules of Trial Procedure, Rule 1 (B) The right of a civil action is not merged in a public offense or a public remedy, but may, in all cases, be sought independently of and in addition to the punishment given or relief granted for the public offense.

Indiana Code §34-28-5-1. Enforcement proceedings
(a) An action to enforce a statute defining an infraction shall be brought in the name of the state of Indiana by the prosecuting attorney for the judicial circuit in which the infraction allegedly took place....
(c) Actions under this chapter...(1) shall be conducted in accordance with the Indiana Rules of Trial Procedure...
(e) The complaint and summons described in IC 9-30-3-6 may be used for any infraction or ordinance violation.
(f) The prosecuting attorney...may establish a deferral program for deferring actions brought under this section. Actions may be deferred under this section if: (1) the defendant...agrees to conditions of a deferral program offered by the prosecuting attorney...(2) the defendant in the action agrees to pay...an initial user's fee and monthly user's fee set by the prosecuting attorney...(4)

the defendant in the action agrees to pay court costs of twenty-five ($25) to the clerk of the court if the action involves a moving traffic offense...
When a defendant complies with the terms of an agreement...the prosecuting attorney...shall request the court to dismiss the action. Upon receipt of a request...the court shall dismiss the action....

IC 34-28-5-6. Suspension for drivers license for failure to satisfy judgment. If a defendant fails to satisfy a judgment entered against the defendant of the violation of a traffic ordinance or for a traffic infraction by a date fixed by the court, the court may suspend the defendant's drivers license. When a court suspends a person's drivers license under this section, the court shall forward notice of the suspension to the bureau of motor vehicles.

OTHER STATE

IC 35-44-3-4 Obstruction of justice....

CITIZENSHIP RIGHTS & REMOVAL -

US Constitution (1789) Art. I. §2. cl. 1., Art. IV. §2., 13th Amendment (1865) §1, & 14th Amendment, (1868) §2 & §5 [RE: gauges of US citizenship]

28 USC 1445 Non removable actions
28 USC 1446(b) Procedure for removal
28 USC 1443 Civil rights cases
28 USC 1446 (c)(1) Procedure for removal
28 USC 1446 (c) (5) Procedure for removal [Evidentiary Hearing]
28 USC 1446 (c) (4) Procedure for removal [Summary Remand]
28 USC 1447 (c) Procedure after removal generally [Certification]
28 USC 1447 (d) Procedure after removal generally [Right of Review or Appeal of Remands ONLY in civil rights cases]

28 USC 1443 Civil rights cases
Any of the following civil actions or criminal prosecutions, commenced in a State court may be removed by the defendant to the district court...wherein it is pending: (1) Against any person who is denied or cannot enforce in the court of such State a right under any law

providing for the equal civil rights of citizens of the United States, or of all persons within the jurisdiction thereof; (2) For any act under color of authority derived from any law providing for equal rights, or for refusing to do any act on the ground that it would be inconsistent with such law.

28 USC 1447 Procedure after removal generally

(a) In any case removed from a State court, the district court may issue all necessary orders and process....

(c)....An order remanding the case may require payment of just costs and any actual expense,...incurred as a result of the removal. A certified copy of the order of remand shall be mailed by the clerk to the clerk of the State court. The State court may thereupon proceed with such case.

28 USC 2254 State custody; remedies in Federal courts

(a) The Supreme Court, a Justice thereof, a circuit judges, or a district court shall entertain an application for a writ of habeas corpus in behalf of a person in custody pursuant to the judgment of a State court only on the ground that he is in custody in violation of the Constitution or laws or treaties of he United States.

OTHER FEDERAL

F.R.Crim.P.

Rule 43. Presence of the Defendant (a) Presence Required. The defendant shall be present at the arraignment, at the time of the plea, at every stage of the trial including the impaneling of the jury and the return of the verdict, and at the imposition of the sentence...

18 USC 241 Conspiracy against rights

If two or more persons conspire to injure, oppress, or threaten or intimidate any person in any State....in the free exercise or enjoyment of any right or privilege secured to him by the Constitution or laws of the United States, or because of his having so exercised the same, or

If two or more persons go in disguise on the highway, or on the premises of another, with intent to prevent or hinder his *free exercise or enjoyment* of any right or privilege so secured-...they shall be fined under this title or imprisoned for any term of years or for life....

18 USC 242 Deprivation of rights under color of law

Whoever, under color of any law, statute, ordinance, regulation, or custom, willfully subjects any person in any State...to the deprivation of any rights, privileges, or immunities secured or protected by the Constitution or laws of the United States or to different punishments, pains, or penalties on account of such person being an alien, or by reason of his color, or race, than are prescribed for the punishment of citizens...shall be fined under this title or imprisoned for any term of years or for life, or both, or may be sentenced to death.

18 USC 876 Mailing threatening communications

Whoever, with intent to extort from any person money or other thing of value, knowingly so deposits or causes to be delivered as aforesaid, any communication...containing any threat to injure the property or reputation of the addressee...or any threat to accuse the address or any other person of a crime, shall be fined under this title or imprisoned not more than two years or both.

18 USC 1341 Frauds and swindles

Whoever, having devised...any scheme or artifice to defraud, or for obtaining money...by means of false of fraudulent pretenses, representations...or attempting so to do, places in any post office or authorized depository for mail matter, any matter or thing whatever to be...sent or delivered by the Postal Service...shall be fined under this title or imprisoned not more than five years, or both.

18 USC 1385 Use of Army and Air Forces as posse comitatus

Whoever, except in cases and under circumstances expressly authorized by the Constitution or Act of Congress, willfully uses any part of the Army or the Air Force as a posse comitatus or otherwise to execute the laws shall be fined this title or imprisoned....

18 USC 1503 Influencing or injuring officer or juror generally
18 USC 1512 Tampering with a witness, victim , or an informant
18 USC 1513 Retaliating against a witness, victim, or informant
18 USC 201 Bribery of public officials and witnesses
18 USC 1962 Prohibited activities [RICO]

(a) It shall be unlawful for any person who has received any income derived, directly or indirectly from a pattern of racketeering activity or through collection of an unlawful debt in which such person has participated as a principal...to use...directly or indirectly, any part of such income, or the proceeds of such income, in acquisition of any interesting in, or the establishment or operation of, any enterprise which is engaged in, or the activities of which affect, interstate or foreign commerce...(b) It shall be unlawful for any person through a pattern of racketeering activity or through collection of any unlawful debt to acquire or maintain, directly or indirectly, any interest in or control of any enterprise which is engaged in , or the activities of which affect interstate or foreign commerce. (c) It shall be unlawful for any person employed by or associated with any enterprise engaged in, or the activities of which affect, interstate or foreign commerce, to conduct or participate, directly or indirectly, in the conduct of such enterprise's affairs through a pattern of racketeering activity or collection of unlawful debt.

TREASON

United States Constitution (1789), 14th Amendment (1868) §3
18 USC 2381 Treason
Indiana Constitution (1851) Art. I, §28 & § 29 Treason & proofs

EQUALITY

US Constitution

Art. IV, Section 2: The Citizens of each State shall be entitled to all the privileges and immunities of Citizens in the several States.

14th Amendment, Section 1 All persons born or naturalized in the Untied States, an subject to the jurisdiction thereof, are citizens of the Untied States and of the States wherein they reside. No State shall make

or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws.

14th Amendment, Section 5 The Congress shall have power to enforce, by appropriate legislation, the provisions of this article.

F.R. Civ. P.

Rule 41(b) Involuntary Dismissal: Effect Thereof. For failure of the plaintiff to prosecute or to comply with these rules or any order of court, a defendant may move for dismissal of an action or of any claim against the defendant. Unless the court is in its order for dismissal otherwise specifies, a dismissal under this subdivision...operates as an adjudication on the merits.

Rule 79 Books and Records Kept by the Clerk and Entries Therein

(a) Civil Docket. The clerk shall keep a book known as "civil docket"...and shall enter therein each civil action to which these rules are made applicable....All papers filed with the clerk, all all process issued and returns made thereon, all appearances, orders, verdicts and judgments shall be entered chronologically in the civil docket on the folio assigned to the action and shall be marked with its file number....

(2)

Supreme Court, U.S.
FILED
JUL 10 2001
OFFICE OF THE CLERK

No. 00-1883

In the

Supreme Court of the United States

October Term, 2000

Lynn D. Johnston, Petitioner

v.

[Removal Action] **Criminal Case No. 53 C 05 9711 IF 07936, Monroe County Court** *[embracing State Court §1983, Etc. Complaint Against Conspiracy Violating Civil Rights Under Color Of Law]* **Frank O'Bannon** (associated with Indiana Gen. Assembly & Office of Govnr.); **Dgls. R. Bridges, Kenneth G. Todd, David L. Welch, Elzbth. Mann, E. Michael Hoff, Marc R. Kellams, & Melissa B. Starry** (assoc. w. Off. of Cir. Ct. Judge); **Carl Salzmann, Jim Trulock, & Jeff Kehr** (assoc. w. Cnty. Prosc. Off.); **Pat Haley** (assoc. w. Cnty. Clerk Off.); **James Sinn, John Daugherty, Kira Moore, Stella Bruce, Donald Fowler, & Alicia Chesterfield** (assoc. w. Off. of Monroe Cnty. Jury); **Randy Williamson** (assoc. w. Off. of Mnr. Cnty. Sheriff); **Jeffrey Modisett** (assoc. w. Off. of Ind. Att. Gen.); **Andy Stephenson, Paul Norris, Jr., Ind. U. Trustees, Mike Patton & Others unknown by name** (assoc. w. Ind. Univ. Police Dept.); **Gary Gibson** (assoc. w. Indpls. Motor Veh. Com.) & **Jeff Byrd** (assoc. w. Indpls. Bu. of Mtr. Veh. Titles); **Dave Martin & Others unknown by name** (assoc. w. Blgtn. BMV Br.); **Nancy Carlstedt** (assoc. w. Blgtn. Hosp.); & **Bonding Agents & Insurers, & others, unknown by name.** Respondents

PETITION for WRIT of CERTIORARI

SUPPLEMENT

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15 PP

QUESTIONS PRESENTED FOR REVIEW

(Preface) (A) The litigation flows from obstruction of defensive vindication petitions against Indiana's "civil infraction" law arising upon prejudicial refusal of equal BMV services leading to a "bad stop" "civil infraction" arrest, entry of a fraudulent judgment with extortionate money demand, followed by removal, remand and notice of state court appeal resulting in retaliations including disappearance and alteration of court records, non-warranted electronic bugging, entry of a guilty verdict by a non-sworn-in jury at a trial in absentia (to which Petitioner was not summoned) with judgment entry again (for more money), drivers license suspension, 40 days non-bailable, non-habeas imprisonment, threats of assault and harm, oppressions and trespasses, some of an ongoing nature and consequence. (B) Indiana's "civil infraction" law allows enterprising prosecutors to divert and block summoned citizens' access to judges by interposition of money solicitations or agreements for paid participation in "deferral programs" in exchange for case terminations. (C) The Monroe County Prosecutor's "Infraction Deferral Programs" enlarged his own office budget by roughly a quarter million dollars last year. Similar "victimless crime" revenue schemes exist in numerous states; but Indiana's Constitution requires both criminal "penal fines" and civil "forfeiture penalties," etc. to remain as the principal in the Common School Fund, a perpetual public trust fund whose income is inviolably appropriated for support of common schools in discharge of state educational duty.

(ONE) Upon what authority or interest does the Judicial Branch sanction obstruction of adjudicatory process ?

&

(TWO) In light of the Separation of Powers Articles, state and federal provisions establishing organic fundamental rights, and National Security Act related prohibitions against direct, indirect, and covert violations of citizens' rights by Executive Branch personnel and contractors, **upon what authority or interest does the Executive Branch undertake informal or covert Judicial Branch intervention, or placement of interlopers ?**

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Supplemental Developments

Petitioner's Certiorari filing was "Express Mailed" on June 13, 2001. On June 14, 2001, Petitioner received her copy of the state court's May 29, 2001 "Order of Dismissal"(postage meter strip dated May 31, 2001) from Respondent Clerk Haley.

The **Supplemental Appendix** shows the Indiana Order supposedly disposing of Petitioner's cause of action ("State Court Section 1983, ETC. Complaint Against Conspiracy Violating Civil Rights Under Color of Law" filed in the Monroe County Court July 18, 2000 **[Apx.E, p.64-79]**). The record shows that it had been neither voluntarily, nor freely filed in the county court, but instead manipulated there upon Respondents'oppression of Petitioner's equal private car travel rights, making car rental impossible and the Greyhound schedule for federal court, an onerous, 2-day trip. Respondents' conduct against normal progress of the suit provoked Removal to the federal court where processing was as a Removal Notice on Dec. 11, 2000 **[Apx.B, p.11]**. To date the statutorily required Certified Remand transferring jurisdiction back to the state court is not found in the state court docket or case file.

Petitioner's several pre-existing, pre-discovery (Aug. 11, 2000) motions **[Apx.D, p.86-99]** remain ignored while Respondents' subsequent motions were essentially satisfied by "dismissing out" the suit. This Order stands at variance from the legal scholarship and integrity anticipated from Special Judge Robertson, and it bears a remarkable resonance with Indiana Court of Appeals Chief Judge Sharpnack's purported "dismissing out" Order of Nov. 23, 1999 **[Apx.C, p.21]** relative to the Jan. 9, 1998 Infraction Judgment Notice of Appeal.

From a federal perspective, **absent a Certified Removal Remand, the Order can not demonstrate a jurisdictional basis,** and is premature. Under the **Ind. Const. (1851), no state jurisdiction exists absent a jury determination of the facts and the law.** Such disposal of a petition for redress of grievances, eliminates access to the demanded jury adjudication. The Order purports to be from the Special Judge selected and appointed specifically for disposal of Petitioner's case by Order of "RS," Randall Shepard, Indiana Supreme Court Chief Judge. Three reasons for dismissal are claimed; not filing within the applicable statute of limitations; failure to state a claim upon which relief may be given; and "where applicable," judicial immunity. No facts, nor law is cited in support, and from the time of his appointment

(when Petitioner's motions had already been hindered more than 90 days, the Special Judge took over 6 months more reviewing the stalled case without identifying any fact or law for support.

Reasons Supplemental for Granting the Writ

Petitioner recognizes "the style" of said Order as similar to prior orders/opinions, not of bona fide Judicial Branch Public Servants or legal scholars, but rather "Executive Partisans." It is a means of throwing another "monkey wrench" into the Judicial Branch machinery to frustrate and defeat Petitioner, consistent with the Certiorari facts speaking so loudly for themselves of (1) the Remand/Certification Citizenship Error, (2) the Jury Adjudication Error, (3) the Immunity Master-Servant Error, (4) the Democratic Republic-Separation of Powers Treason Error, (5) the Justice Purchase Fees Error, and (6) the Civil Power Over the Military Error.

Equality is an American foundational principle. The principle underlying immunity is inequality and that makes it unAmerican. Petitioner condems Respondents' reliance upon what must be seen as English and French theories of sovereign immunity for protection from the consequences of their joint and ongoing acts and omissions. Even under the various imperial monarchies, police and ministerial officers did not partake of the "divine right of kings," and of course, we have no king here in America where we all come before the law, i.e. the jury, equally. Obstruction of access to jury adjudication is treason against our form of government. Under English Crown Rule, the King was sovereign and without responsibility or accountability to the people. Legal process against the monarch's subjects made use of the king's name, whereas criminal process against sovereign American citizens is captioned, "In the name of the people of..." indicative of the relationship of agency and the sovereignty of the common people who live not under monarchy, nor sovereign government, but a republican form of democracy, of and by a sovereign people.

The organic and common law of the United States is that of agency. The phrase "all power is inherent in the people" **(Ind. Const. (1851) Art. I, §I)**, identifies the agency or master/servant relationship. "The people" are intended to have the final word and rule over government agents through democratic processes of trial by jury, election, etc. The contract for government is the organic, fundamental law of the land, i.e. the **1776 Declaration of Independence, 1777 Articles of Confederation, 1787 Northwest**

Ordinance, 1789 US Constitution, 1791 Bill of Rights, state constitutions, and laws passed pursuant thereto, all affirming the right of jury adjudication. **The agent may not rise above the principal by subverting jury rights**, not out of judicial trepidations of "irresponsible" or "prejudiced jurors," convenience, theories of superiority, want of power, or anything else. In acknowledgement of this principal/agent relationship, Supreme Court Justice Field said: "There is no such thing as a power of inherent sovereignty in the government of the United States...In this country sovereignty resides in the people, and Congress can exercise no power which they have not, by their Constitution entrusted to it: All else is withheld" **(Julliard v Greenman, 110 US 421) (1884)).**

The people of Great Britain and France were not the sovereigns, their rulers were; and this alone was enough for the creation of American organic and common law, and that law is the law of agency; and with it comes the public servants'"risk of liability and exposure from a jury or a free press. The demand for trial by jury is the demand that the people interpret and apply the law as they, in good conscience, see fit. The necessity of accountability and respect for jury adjudication are critical to the right of the people to serve as the final check against public servants. If the jury were accountable to the government, this most important check would be lost. The role and function of juries should be discussed in terms of sovereignty that is, in terms of who makes binding decisions, or who should make them.

The viability of the American court system can only be maintained, if the court as an instrument, is accountable to the people under the tenets of the democratic republic theory of jury adjudication rights. The concept of jury nullification derives its authenticity from a functional and historical analysis of the role of the jury as the guardian of liberty and the all encompassing right of conscience in a democratic republic **(Bushnell case, 6 Howard's State Trials, 999 (1690))**. The jury is the one final check and balance on governmental power, and since it has no ambition, it gives the law an acceptance which verdicts of judges cannot do. " It doth not vitiate a verdict," complaining that the jury have mistaken the law or the evidence, because "the jury who shall try the cause shall be judges of the law as well as the fact" for by practice of this state, they are judges of of both...." **(Whitter v Brewster, Kirbly 422, 423 (Conn. 1788))**. In Congress on the subject of jury rights, Robert Goodloe Harper of South Carolina urged that "there could be no need of such an amend-

ment, [because] it was well known that in this county, the jury were always the judges of the law as well as the facts, in libels, as well in every other case" **(8 Annals of Cong. 2135 et seq (1798))**. Subsequently in the **Samuel Chase Impeachment Trial**, the **3rd and 4th Articles of Impeachment** made formal issue of his attempt to deny the right of defense counsel to argue to a jury that the act was unconstitutional and for him to deny the jury's right to rule on the admissibility of evidence **(Report of the Trial of the Hon. Samuel Chase, Evans ed. 1805, appx. at 4)**. The first Pennsylvanian unqualifiedly to oppose the position that the jury were judges of the law and fact was Judge Alexander Addison. In his charges to the grand jury and in a number of decisions he vigorously repudiated the notion that the jurors could properly disregard the court's instructions, consequently he was removed by impeachment **(Trial of Alexander Addison, Lloyd ed 1803)**.

The May 29, 2001 Order of the Special Judge is a contempt against the federal jurisdiction, and usurpative of the **Ind. const.** which lays a solemn, oath-bound duty upon jurors to judge both the law and facts, in support of the precept that is the duty of a free people to stay free and in control of governmental servants by such reasonable, but formidable means as jury adjudication. Thus, no such "dismissing out" of Petitioner's litigation is possible absent the approbation of the jury. Obstruction of access for jury adjudication, is obstruction of justice, and usurpation of the form and function of the one critical division of government to which all other must yield, and it is more than error or corruption, it is treasonous.

Liabilities properly grow out of the American peoples' law of agency, and they all lay against the government to the benefit of free sovereign principals who are entitled to make judgments against said agents through their most important democratic institution: the jury. The Vermont Supreme Court found the jury's rights to be "a true principle of the common law" which is "peculiarly appropriate to a free government" **(State v Wilkinson, 2 Vt 480 (1829) at 488, 489)**. Supreme Court Justice Oliver Wendel Holmes said: "The jury has the power to bring in a verdict in the teeth of both law and the facts" **(Horning v DC, 254 US 135, 138 (1920)**. The principle for jury nullification "is one of those great exceptional rules intended for the security of the citizen against any impracticable refinements in the law, or any supposable or possible tyranny or oppression of the courts...[and] "a great landmark of liberty" **(Judge Redfield, C. J. in State v**

McDonnell, 32 Vt 491 (1860), at 461, 531-32). The judges in Rhode Island held office "not for the purpose of deciding causes, for the jury decided all questions of law and fact: but merely to preserve order, and see that the parties had a fair chance with the jury (Chipman and Eaton, The Development of the Judicial Systems in Rhond Island (1905) 14 Yale L.J. 148, 153)). Under the frontier conditions of early Illinois (formerly part of Indiana), the judges in both civil and criminal cases were reluctant to assume the responsibility of deciding questions of law, preferring to leave all matters to the determinations of juries (Ford, History of Illinois (1854), p.83). In early Michigan (formerly part of Indiana), "An act concerning grand and petite jurors of February 7, 1820," §6, (Laws of the Territory of Michigan, p.137) acknowledges the complete right of the jury to return a general verdict without explanation or latitude for governmental manipulation." The principle of the right to trial by jury embraces entitlement to argue the unconstitutionality of a law (Commonwealth of Mass. v Abbott. 13 Metc. 120 (1847)). In the 1838 appeal of the Washtenaw County case of Burhans v Reynolds, a labor dispute in which the trial judge tried to usurp the rights of the jury (January 19, 1838, Unreported Opinions of the Michigan Supreme Court: 1836-1843, p.17, ed by Wm. Blume, U of M Press), the high court held that: "...jurors are judges of the law as well as the facts..."

The "Northwest Ordinance" (July 13, 1787) "Temporary Government §14" declares that: "... the...articles of compact between the original states, and the people and states in the said territory, and forever remain unalterable, unless by the common consent, to wit:... Article 2..." the inhabitants of said territory shall always be entitled to the benefits of the writ of habeas corpus and trial by jury...." This guarantee was brought forward and made a permanent part of the organic, fundamental law of the land in the Act of August 7, 1789 by which the First Congress provided that the Northwest Ordinance be adapted to the US Constitution, attesting to the elevated importance given the original, enduring rights so established. Anyone denying organic territorial rights as well as the American common law precedents established thereby, invites a history lesson, if not a federal civil rights suit because, in the intervening 200+ years, there has been no common consent of the electors to revoke said jury rights whatsoever. Respectful application is given to the jury adjudication guarantee in the processing of crimes, civil disputes,

divorces ("An act concerning grand and petite jurors of February 7, 1820, §6, "An act to regulate and define the duties and powers of the justices of the peace and constables in civil cases of May 20, 1820, §7, and "An act concerning divorces §2 of November 30, 1819," (Laws of the Michigan Territory, p.137,139,229), and according to the Transactions of the Supreme Court of Michigan 1805-1814, Case Number 87 (vol.1, p.106, & vol.2, p.186-187 (In the Matter of Francis Desforges, a Lunatic, 1807, Blume, U of M Publications)), even proceedings to determine lunacy and restoration of mental capacity are domain of juries. The Laws of the Territory of Michigan (1820), p.18 has as its first law "An act for establishing courts of probate of July 27, 1819, §5, which provides that "...the sanity of the testator, or the attestation of the witnesses... be tried before a jury...." In Transactions of the Supreme Court of Michigan 1805-1814, vol.1, Cases No, 228 and 229, p.329 (In the matters of Jacob Smith, and Isaac Burnett, habeas corpus October 17, 1809), Judge Woodward held that "the bill extending the jurisdiction of magistrates to $50 without a jury is not a law obligatory upon the inhabitants of this territory," and Case No. 227, p.328 (In the matter of Moses David, October 26, 1809) is to the point of the government responsible by suits for compensation upon damaging defaults or misconduct through jury trials. The Opinion by Woodward, C.J. [at part 3] says that "executive officers are liable to an action for every invasion of the rights of the citizens... [and at part 4] [by actions and impeachments the rights of citizens are better guarded than if courts of judges, particularly subordinate courts, should attempt to control purely executive power." In the Laws of the Territory of Michigan (1820) and the earlier Woodward Code (1805) performance bonds were required, of Executive Branch public servants, and no immunity existed. If a citizen complained of a default of duty, negligence, oppression or misfeasance of office, the evaluation and decision of the issue was left to the judgment of a jury. Prior to 1835 persons aggrieved of governmental acts or omissions, had an unequivocal right to an ordinary, fair recourse by way of taking the case to a jury.

The breadth of the jury rights referenced and preserved in the current Ind. Const. (1851) are the same jury rights as existed and were brought forward from the territorial government, and Articles of Confederation and US Congress' authorization for the making of laws in the Indiana Territory prior to statehood has been carried forward to the Fed. Rules of Civ. Procedure 38(a)

providing that the right to trial by jury of civil cases at common law of $20 or more "as declared by the 7th Am. to the Const. or as given by statutes of the United States shall be preserved to the parties inviolate." Indiana is in contemptuous violation of its formal assent to the terms and conditions under which statehood was granted [Apx.D, p.75-79; Apx.K, p.191-193, 200].

The regional territorial, pre-constitution-1789 "common law," is the process provided by, for example, the **Woodward Code (1805) at p.37** [adapted from Pennsylvania laws] for actions against "any justice...for any thing done in the execution of his office" if commenced "within one year after the act committed (**Cass Code (1816)**), and the **Laws of the Territory of Michigan (1820) at p.114 ,145 & 474**, providing that "every sheriff or other officer, who shall offend against, or refuse to obey any of the provisions contained in this act" shall be liable to "TREBLE damages to the party grieved, to be recovered by an action of debt...with costs," and providing that "in all prosecutions for any crime, or misdemeanor... if the defendant or prisoner be discharged on examination by such magistrate, or acquitted on trial, the prosecutor shall pay all costs, and execution may be issued as in civil cases." The intent of such legislation was to make government and lawyers, publicly honest and financially responsible, with a guarantee of collectible judgments for you or debtors' prison for them. The existence of such laws does away with errant notions of any historical basis whatsoever for immunity from suit, and it was judges and governors who drafted initial territorial laws. Under the principle of equality of electors, jurors, the **Ind. Const. (1851), Art. VII, §21** provides that anyone can "practice law in the state who is a voter and of good moral character" (the Indiana courts' attempt to subvert the equality principle by finding a new definition for the term "electors of the state" and specially adopting new reasoning for reaching a partisan result to do away with the judge and bar despised **Art. VII, § 21** notwithstanding **(1932 Am Bar Asso J p.137-8)**.

In light of the power of taxation, the principle that access to Executive, Legislative and Judicial Branch processes should be without "entry fee" solicitations, is acknowledged by **Ind. Const. (1851) Art. I, §12** (....Justice shall be administered freely, and without purchase). Among other things, the Order of the Special Judge, fails to address Petitioner's objections to solicitation of court access fees. They unAmerican in principle,

and error, amounting to a capitation tax, (an ancient kind of tribute used to distinguished between taxes on persons and taxes on merchandise). Thus while court fees are constitutionally prohibited in Indiana, the federal court is also prevented from solicitation of court access fees because current federal practices amount to unapportioned capitation taxes, and all such direct taxes from the **1787 Northwest Territory Ordinance** forward must be apportioned among the territories/states.

The Mich. Const. (1835), Art. I, §3 declared that "no man or set of men are entitled to exclusive or separate privileges" doing away with the errant notion those in government should be entitled to the privilege of immunity from prosecution. **The wise intent of such law was to assure the responsibility of government to the people through "inviolate" accountability before a jury.** The historical breadth of the common law right of jury justice against "trespasses" or "color of law" acts or omissions is undeniable.

There is absolutely no satisfactory evidence that the Congresses responsible for the Civil Rights Act intended that judges should be free to deprive citizens of their federal constitutional rights; to the contrary, the available evidence indicates an intent that all persons should respond when they deprived others of their federal civil rights. Proper political policy requires that judges be equally subject to the law. The idea that they are immune from consequences flies in the face of constitutional principles, and is error. Apart from Petitioner's cause of action, one judge left his bench to throw out a 65 year old citizen forcing him through the door, then throwing him on the floor, jumping on and beating him. Other judges have ordered men castrated, and have had orphan children whipped upon bribery payment (see **Civil Right Civil Action, Vol. 1, §99 by Chester J. Aniteau**). The Civil Rights Act is not to be rewritten by judges to encourage such conduct. Victims of this kind of illegal behavior are not to be denied their remedy. The legislation of the post-Civil War period was premised on the belief that the fundamental rights of the individual should be defined and enforced by the federal government, but this Court has consistently refused to accept this premise, substituting the belief that civil rights lie within the realm of state power. "Hardy indeed would be the plaintiff who could drive his complaint safely around all these constitutional roadblocks set up by the Court" **(Collin v Hardyman, 341 US 651, 71 S. Ct. 937 (1951))**.

Most judges are more cognizant than others in the matter of deliberately depriving citizens of their constitutional rights. If a society strongly believes competent lawyers will not become judges under a rule making them equally responsible to the jury and law like other people, it can pay the premiums on policies covering these judges against their lawless behavior; or similarly to the good faith, "probable cause certificate" protection for revenue agents under 28 USC 2006 (whereby jury awards may be paid out of the US Treasury instead of by the errant public servant), such law could be extended to others.

A reason customarily given for immunizing judges is that the specter of law suits will prevent them from fearlessly administering the law. The exact opposite is true. There is no fear of being caught, being held accountable, or being punished, Immunized public officials fearlessly manipulate and pervert the administration of justice to their own agenda or for financial interests, as 'Court-Blessed" special people of privilege. The immunity given by this Court to other judges is an absolute immunity from actions for damages so long as they are acting within the jurisdiction over both the person and the subject-matter. The course of Petitioner's right vindication petitions demonstrate the gravity of the error in principle and practice, exemplifying the resultant "imprudence" thriving in Indiana. Predictably the infamous Indiana case precedent which endorses judges having little girls sterilized without their knowledge or consent (Stump v Sparkman (1978) 435 US 349, 55 L Ed 2d 331, 98 S Ct 1099, reh den 436 US 951, 56 L Ed 2d 795, 98 S. Ct 2862), bears its unprincipled "above-the-law-fruits." Petitioner's actions, exposing a RICO-like multi-million dollar infraction revenue conversion scheme defrauding the Common School Fund (Apx.D, p.79) for the State General Fund and discretionary county prosecutors' "deferral programs" (but inviting use for such purposes as settlement of personal debts), makes the instant cause a particularly fitting place to correct the errors. It is not essential to the well being of the judiciary nor the military where authority is abused for injustice or oppression, that the party injured is told the complaint is "a wrong without a re-dress," or it "fails to state a claim for which relief can be granted." Nor is there any sound reason for holding that federal courts should not have the power to issue injunctive relief against the commission of acts in violation of a plaintiff's civil rights by state judges acting in their official capacity.

The gravity of the constitutional errors glare in the political principle crisis flowing from a minor traffic ticket, against an invidiously discriminated against citizen, victimized by a mortally bankrupt justice system, by uneducated jurors-interlopers, and by a paranoid, treasonous 'Black Flagg' "national security" faction imposing "kingly "or chattel-slavery-like "rights of property" against citizens by abductive technologies, surreptitious intrusions and invasion of citizens' rights and private domains, homes and bodies viaTeleguard type devices, micro-implants, non-consensual infrasound experiments with "molestation citizens on account of their religious sentiments" by such "mind control" shows such as Operation Blue Light, Project Holly See, etc. in the violation of the **Northwest Ordinance paragraphs 15 & 20, the 3rd, 4th, etc. Am.**, and in violation of citizens' right of civil control over the Executive Branch military power (see **Apx. K, p.188-190, 193-197.** ("Information Operations: A New War Fighting capability research paper presented to the Air Force 2025, Aug. 1996 RE: overcoming "social and cultural biases to a brain implanted decision tool; the CIA's "Mankind Research Unlimited" RE: "brain cleanser "psycho-acoustical infrasound, etc.).

The purpose of federal post-Civil War civil rights legislation was protection against state officers' and agents' violation of constitutional rights. No government 'agent of the people' is higher than the constitution. The state exists to preserve individual freedom. The structure of 'liberty under law' government needs to be refreshed and old error patterns typified by Stump/Slaughterhouse /Pierson etc., rendered obsolete. The larger principle is that in the greater evolutionary scheme, all in error, learning from consequences, move forward in the light of increased knowledge in the free choice system. The **14th Amendment** was intended to give practical effect to inalienable rights, the gift of the creator, which the law does not confer, but only recognizes. The remedy for state denial of rights is removal or federal supervision; the remedy for the feared flood of state cases is, no immunity; the remedy for bad police and military judgment, abuse and "error," is full exposure and full liability; the remedy for corrupt judges and prosecutor is exposure and petite and grand jury decisions for everything; the remedy for alarmist concerns that anyone could make a mistake while under color of law, is honest and performance bonds, etc...and the jury.....

July 12, 2001 Respectfully submitted,

STATE OF INDIANA) IN THE MONROE CIRCUIT COURT
)
COUNTY OF MONROE) CAUSE NO. 53C04-0007-CP-01040

LYNN JOHNSTON,
Plaintiff,
Vs.
FRANK O'BANNON, ET AL,
Defendants.

ORDER OF DISMISSAL

The court having reviewed the files herein is now duly advised in the premises.

Based upon the pleadings the court does now grant all of the several motions to dismiss, for the following reasons:

1. The cause was not filed within the applicable statute of limitations.

2. The complaint fails to state a claim upon which relief can be granted.

3. Where applicable judicial immunity applies.

This cause is ordered dismissed as to all defendants.

So ordered, considered, and adjudged this 29th day of May, 2001.

/s/_____

Jonathan J. Robertson, Special Judge
Monroe Circuit Court #4

Distribution:
Lynn Johnston
Counsel of Record
Clerk
RJO
File